

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTIONCIVIL APPEAL NO. 8357 OF 2016

RAM SINGH

APPELLANT (S)

VERSUS

RAJENDRA PRATAP SINGH @ MOTI SINGH
& ORS.

RESPONDENT (S)

JUDGMENTNAGARATHNA, J.

This civil appeal arises out of impugned order dated 09.08.2016 passed by the High Court of Allahabad at Lucknow Bench in Election Petition No.2 of 2012.

2. Briefly stated, the facts of the case are that the appellant was declared elected as a Member of the State Legislative Assembly of Uttar Pradesh from the 249 Patti Assembly Constituency, District Pratapgarh in 2012. However, this was challenged by respondent No.1 herein through Election Petition No.2 of 2012 before the High Court of Allahabad at Lucknow, on the ground that there was an improper refusal/rejection of 955 postal ballot papers.

3. By impugned order dated 09.08.2016, the High Court allowed the Election Petition, thereby declaring the election of the appellant herein as void. In paragraphs 53 to 56 of the impugned order, the High Court observed as follows:

"53. I have also no hesitation to mention that during the proceedings of this election petition, the respondent no.1 adopted numberless delaying tactics by taking number of adjournments; by moving number of applications under various provisions of CPC; and by not cooperating for early disposal of this election petition. Even on 03.03.2016 the court was compelled to pass the following order: "

(Misc.Application No. Nil of 2016)

The application for adjournment has been moved by learned counsel for the respondent No.1, which has been strongly opposed by learned counsel for the petitioner on the ground that petition is pending since 2012 and the respondent No.1 is delaying the hearing of the said election petition.

Today, the date is fixed for further cross-examination- of the petitioner and it has been clarified on previous dates also that delaying tactics may not be adopted. There are so many counsel engaged on behalf of the respondents, namely, Sri Ashok Kumar Tripathi, Sri Manoj Verma and others. Needless to say that the proceedings are also delayed by filing various applications one-by-one.

The application for adjournment is allowed subject to payment of Rs. 10,000/- as cost to be deposited by the respondent No.1 in the Library Fund of Oudh Bar Association on or before the next date of listing.

It is further made clear that if hindrances are created in the disposal of this petition, then this Court shall be constrained to pass such orders, which may result to withhold the salary, the perquisite as well as the Vidhyak Nidhi and other facilities of respondent No.1 because the term of present election is likely to end in March, 2017.

List the case on 29.03.2016, at 2:00 p.m. for further crossexamination of PW-1."

54. From the discussion aforesaid, I am of the view that there has been non-compliance of the provisions of 1951 Act; Rules of 1961; as well as Hand Book for Returning Officer 2009. Therefore, in view of the provision of Section 100(1) (d) (iv) read with provisions of Section 98 of the Act, the election of the returned candidate is liable to be declared as void.

55. The petition is allowed with costs. The Election for Legislative Assembly of Uttar Pradesh 2012 of respondent no.1 as Member of Legislative Assembly from 249 Patti Constituency Assembly Pratapgarh, District Pratapgarh is declared as void. As the election of respondent no.1 is being declared void, therefore, respondent no.1 must not be allowed any benefits of this election and also pension as Member of Legislative Assembly and all other such benefits, which are admissible to an Ex-Member of Legislative Assembly. It is clarified that this period shall confined to General Elections for Legislative Assembly of Uttar Pradesh 2012.

56. For non-compliance and violation of the procedure and Rules, strict action must be taken by the State Government against Sri Sharda Prasad Yadav, ADM (Civil Supplies) Kanpur (the then Returning Officer for 249 Patti Assembly Constituency, District Pratapgarh) and in future, he must not be assigned any important duties or posted on a significant post."

4. Hence, the present appeal. By interim order dated 05.09.2016, this Court admitted the appeal and granted stay of the impugned order.

5. We have heard learned counsel appearing for the respective parties.

6. Learned counsel for the appellant drew our attention to the contents of paragraphs 53 to 56 of the impugned order and submitted that having regard to the interim stay of the impugned order by this Court, the same has not been given effect to and hence at this point of time if the merits of the case are not being otherwise gone into, the appellant herein cannot be denied the benefit of the interim order of this Court. He, therefore, submitted that the said portions may be set aside.

7. We have also heard learned counsel for respondent No.1 on this aspect of the matter and perused interim order dated 05.09.2016 passed by this Court, which reads as under:

"Appeal is admitted.

In the peculiar facts and circumstances of the case, there shall be stay of operation and implementation of the impugned judgment.

Mr. C.D. Singh, learned counsel takes notice for Respondent No.1.

Issue notice to Respondent Nos. 2 to 15.

Dasti service is also permitted.

List after six weeks."

8. In view of the interim stay of the impugned order passed by the High Court and the fact that we do not propose to consider the appeal on merits as the tenure of office of the elected candidate/appellant herein for the period 2012-2017 has also lapsed, we think it is in the interests of justice to set aside the observations made by the High Court in paragraphs 53 to 56 of the impugned order.

The Appeal is allowed in part in the aforesaid terms.

.....J.

[B.V. NAGARATHNA]

.....J.

[UJJAL BHUYAN]

NEW DELHI;
JANUARY 29, 2026