

Court No. - 2

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 69 of 2022

Petitioner :- Rajan Singh

Respondent :- Election Comm.Of India Thru. Chief Election Comm. And Anr

Counsel for Respondent :- Vijay Vikram Singh,C.S.C.

Hon'ble Devendra Kumar Upadhyaya,J.

Hon'ble Mohd. Faiz Alam Khan,J.

This petition ostensibly in public interest has been filed with the following prayers :

a) Issue a writ, order or direction in the nature of mandamus, directing the Respondent No.1 to clarify the aforementioned facts mentioned in the instant petition and in event of failure to do the same, the proposed General Legislative Assembly Election-2022 which are going to be held from 10.02.2022 in the State of U.P. may be postponed till the enquiry may be conducted by any independent Committee.

b) Issue a writ, order or direction in the nature of mandamus, to constitute a High Level Committee to look into the matter and the discrepancies mentioned in the instant petition against the Press Note dated 08.01.2022 issued by the Respondent No.1 and submit a report before this Hon'ble Court in the interest of justice.

c) Issue a writ, order or direction in the nature of mandamus directing the Respondents to submit an Affidavit that all Central/State Government officials deployed for election duty has been doubly vaccinated for the Covid-19 and all election officials and employees who will be treated as Frontline Workers in the upcoming election which is going to be start from 10.02.2022 has also been given a precautionary Booster Dose by the Chief Secretary of the State to the Respondent No.1.

Heard Sri Rajan Singh, the petitioner in person, learned State Counsel and Sri Vijay Vikram Singh, learned counsel representing the Election Commission of India.

The petitioner has pointed out that the Election Commission of India while issuing the Press Note giving the information to hold the assembly elections in five States, namely, Goa, Manipur, Punjab, Uttrakhand and Uttar Pradesh has given

certain factually incorrect information, vide its Press Note dated 08.01.2022 which is supposed to conduct free and fair process of elections. He has also pointed out certain discrepancies in the information as is available in the document of Election Commission of India, namely, "Election Commission of India-State Election, 2017 to the Legislative Assembly of Uttar Pradesh" and has thus submitted that on account of said discrepancies and the facts relating to number of Polling Stations, number of Votes not retrieved from EVM, Test Votes, Rejected Votes due to other reason and NOTA Votes, the electors in the State of Uttar Pradesh have not been provided for correct information and as such they are not able to make up their mind appropriately to cast their votes and thus, exercise their franchise in an appropriate manner.

Sri Rajan Singh has further argued that in terms of the provision contained in Article 324 of the Constitution of India, Election Commission is a constitutional body which has constitutionally been entrusted to supervise and conduct free and fair polls to the Legislatures and in case such wrong/incorrect information is being published by the Election Commission of India itself, it would amount to failure on the part of the Election Commission of India in performance of its constitutional duties. In the wake of the aforesaid submissions, the prayers as afore-quoted have been made.

On the other hand, learned counsel representing the Election Commission of India and the learned State Counsel have argued that the prayers made in this petition are absolutely misconceived and are thus liable to be rejected.

Having considered the submissions made by the petitioner, who appears in person and the learned counsel for the respondents, what we notice is that in the entire petition as also during the course of argument, the petitioner has utterly failed to point out any prejudice which can be said to be caused on account of alleged incorrect information regarding number of Polling Booths/Stations or even the number of votes which could not be retrieved from EVM etc. When we compare the Hindi and English version of the Press Note issued by the Election Commission of India, dated 08.01.2022, what we find is that in its Hindi version, the number of Polling Booths/Stations are given pertaining to the year 2016 and 2021 and its English version the said information is shown to be of the year 2017 and 2021. Such variance in the Data contained in the Press Note dated 08.01.2022, in our considered opinion, does not affect, in any manner, the elections which are presently being conducted by the Election Commission of India.

As pointed out above, we have not been able to decipher as to what prejudice is being caused because of the said discrepancy so far as the statutory rights of an elector or a candidate of casting his vote or participation in the election are concerned.

In our considered opinion, the writ petition is highly misconceived, which is hereby **dismissed**.

We, however, hope and expect that Election Commission of India shall be cautious in future so that such discrepancy in its data is not reflected..

Order Date :- 15.2.2022

Sanjay