

Court No. - 2

Case :- MISC. BENCH No. - 14049 of 2021

Petitioner :- Akhilesh Singh

Respondent :- State Of U.P. Thru Prin.Secy. Home Lucknow
And Ors.

Counsel for Petitioner :- Rakesh Kumar Yadav, Amarjeet
Singh Rakhra

Counsel for Respondent :- C.S.C., Rakesh Kumar Chaudhary

Hon'ble Devendra Kumar Upadhyaya, J.

Hon'ble Ajai Kumar Srivastava-I, J.

The averments made in the writ petition are quite disturbing.

The election for the Block Pramukh of Development Block concerned is to be held for which today is the last date for filing nomination papers. Submission of learned counsel for the petitioner is that the petitioner is a member of Block Development Committee and he intends to contest the election of Block Pramukh. Respondent No.6 is said to be an Hon'ble Minister in the State Government, whose son is also said to be a candidate in the said election. The writ petition contains allegation that at the instance of the respondent No.6, the local district and police administration has been taking all possible measures to prevent the petitioner from filing his nomination papers.

Learned counsel for the petitioner has stated that he has even instructions to say that the petitioner has been illegally detained by the local District and Police Administration of District Pratapgarh. He has further stated that it is not only that the petitioner has been detained but even his family members, which includes his son, have also been detained, only with a view to prevent the petitioner for participating in the said election.

Needless to say that free and fair elections to democratic institutions of the country is one of the basic features of our Constitution. Any attempt from any corner including State authorities or district administration to damage the system of free and fair poll is not conducive to democratic functioning of the State.

In view of the assertions made in the writ petition, we direct the learned Additional Chief Standing Counsel to seek complete instructions in the matter by 1.15 p.m. not only from the District Magistrate, Superintendent of Police/Senior Superintendent of

Police, Pratapgarh but also from the Additional Chief Secretary, Home and Director General of Police. We also require the presence of a responsible officer from the office of Director General of Police who should be a member of Indian Police Service to be authorized by the Director General of Police to be present before this Court through Video Conferencing for our assistance.

We fix the matter at 1.15 p.m. today itself because of compelling situations as expressed in the writ petition and also on account of the fact that the nominations for election to the post in question can be filed today only till 3.00 p.m.

Order Date :- 8.7.2021

Sanjay

In deference to our order passed in the first half of the day, Sri Surendra Bahadur, a member of Indian Police Service, who is presently attached with the office of Director General of Police, Lucknow and is looking after the legal matters, is present before the Court through Video Conferencing from the office of learned Additional Chief Standing Counsel, Sri H.P. Srivastava.

Having regard to the seriousness of the allegations contained in the writ petition, we require the respondent nos.1 and 2 to file counter affidavit separately within a period of four weeks. Counter affidavit shall also be filed by respondent nos.3 and 4 within the said period.

Issue notice to respondent nos.5 and 6, who may also file their counter affidavits within the aforesaid period.

A week's time thereafter shall be available to learned counsel for the petitioner to file rejoinder affidavit, if any.

List this case on 25.08.2021.

Sri H.P.Srivastava, learned Additional Chief Standing Counsel has received certain instructions from the Deputy Inspector General of Police, Pratapgarh, Sri L.R. Kumar. On the basis of said instructions, it has been submitted that the petitioner was never detained by the police authorities; rather his son was challaned yesterday i.e. on 07.07.2021 under Section 151 of Cr.P.C. and on furnishing bond he has been released yesterday itself. Sri H.P.Srivastava, learned Additional Chief Standing Counsel has further stated that in fact, petitioner's present location since around 12 O' Clock has been found to be near his residence and there is no interference by the local police administration or by any other district authorities so far as his

free movement is concerned.

The aforesaid facts are being controverted vehemently by Sri Amarjeet Singh Rakhra, learned counsel for petitioner.

So far as the allegations and counter allegations about detention/free movement of the petitioner is concerned, the Court proposes to adjudicate the same once the affidavits in the matter are exchanged, however, since the last date of filing nomination papers for the election to the office of Block Pramaukh is today and the nomination can be filed till 3.00 pm, we find it appropriate to issue certain directions to facilitate the petitioner to submit his nomination papers within the time prescribed for the said purpose. The petitioner in the writ petition has expressed serious apprehensions about his safety and security and free movement at the behest of respondent nos.5 and 6 and accordingly we direct that the petitioner shall be facilitated in all manner to file his nomination today itself before the prescribed time.

We have been informed by Sri Rakesh Chaudhary, learned counsel representing the Election Commission that nomination papers are to be filed in the Development Block Headquarters and that the petitioner can procure the nomination form today itself and fill and submit it before the authority concerned before the deadline.

Accordingly, we direct that while the petitioner undertakes any journey to reach the Development Block Headquarters for filing his nomination papers, he shall be accompanied by adequate police force, who shall ensure his security. The security of the petitioner during this period shall be personal responsibility of the Deputy Inspector General of Police, Pratapgarh.

He shall accordingly be escorted not only to the Development Block Headquarters but shall also be escorted back to his residence or any other safe place. During the course of election i.e. till declaration of results the Deputy Inspector General of Police, Pratapgarh shall ensure the security to the petitioner's life and liberty. He shall also ensure that the petitioner is able to move freely without any hurdle or threat from any corner whatsoever. We further direct that considering the peculiar facts as narrated before us the officers of Election Commission including the Returning Officer shall extend all cooperation to the petitioner so that he is able to avail his democratic right for filing nomination papers.

Learned counsel for petitioner has stated that since the instance of detention of the petitioner, his supporters and family

members has taken place after the writ petition was filed, he may be permitted to file supplementary affidavit in this regard.

He is permitted to do so within a week.

This order shall be communicated forthwith i.e. immediately to the authorities concerned telephonically by Sri H.P.Srivastava, learned Additional Chief Standing Counsel without waiting for a certified copy of the same. He may also communicate this order in writing, of course after sometime when the order is available, to the Additional Chief Secretary, Home, Government of U.P. and also to the Director General of Police, Lucknow.

Sri Rakesh Chaudhary, learned counsel representing the Election Commission shall apprise the Election Commission, the Returning Officer and other Officers of the Election Commission of this order immediately through telephone.

Order Date :- 8.7.2021

Sanjay