



2026:AHC-LKO:3798-DB

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

PUBLIC INTEREST LITIGATION (PIL) No. - 5889 of 2013

Moti Lal Yadav

.....Petitioner(s)

Versus

Chief Election Commissioner Election Commisn.of India and Ors.

.....Respondent(s)

Counsel for Petitioner(s)	: In Person, Rajat Rajan Singh
Counsel for Respondent(s)	: C.S.C., A.s.g., Anupriya Srivastava, Kaushlendra Yadav, O.p. Srivastava

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

1. Heard Shri Moti Lal Yadav, Petitioner in person, Shri Rajat Rajan Singh, learned Amicus Curiae appearing on behalf of the petitioner, Shri O.P. Srivastava, learned Senior Advocate assisted by Ms. Anupriya Srivastava, learned counsel appearing for opposite party no.1 as well as Ms. Isha Mittal, learned Additional Chief Standing Counsel for the State and perused the materials available on record.

Notices were issued to opposite party nos. 5 to 8 and based on office report the same is deemed sufficient as per the Rules of the Court, a fact which has been noticed in the order dated 07.08.2024. None has appeared on behalf of the opposite party nos. 5 to 8 to contest the matter.

2. By means of this writ petition, petitioner- **Moti Lal Yadav** has prayed for the following main relief(s) :-

"(i) issue a writ, order or direction in the nature of Mandamus commanding the opposite Party No.1- Election Commission of India to Ban all the Caste Rallies/Sammellans like Brahman MahaSabha Rally, Yadav Rally, Chhatriya Rally, Kayastha Rally, Vaish Sammellan etc. organized by all the Political parties of India.

(ii) issue a writ, order or direction in the nature of Mandamus commanding the Opp. Parties to Ban to contest Election upon any person /party which are dividing the Society/Voters on the Caste/Religion basis.

(iii) issue a writ, order or direction in the nature of Mandamus commanding the Opp. Party No.1 to cancel the Registrations of the Political Parties which are found as guilty by organizing Caste/Religion Rallies."

3. We have perused the interim order dated 11.07.2013 passed in this case.

4. As regards, ban on caste rallies by the Election Commission is concerned, the Commission has a role to play only after notification of elections, till its conclusion and to further this cause a Model Code of Conduct has been prepared which is referable to Article 324 of the Constitution of India read with relevant provisions of Representation of the People Act, 1951. As per the Model Code of Conduct for guidance of political parties and candidates, copy of which has been brought on record by the Commission, it is very much enshrined *interalia*, that no party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic; there shall be no appeal to caste or communal feelings for securing votes; Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda, etc.

Further, we find that for violation of the Model Code of Conduct, action is permissible under paragraph no. 16-A of The Election Symbols (Reservation and Allotment) order, 1968, which reads as under:-

“[16A. Power of Commission to suspend or withdraw recognition of a recognized political party for its failure to observe Model Code of Conduct or follow lawful directions and instructions of the Commission-

Notwithstanding anything in this Order, if the Commission is satisfied on information in its possession that a political party, recognized either as a National party or as a State party under the provisions of this Order, has failed or has refused or is refusing or has shown or is showing defiance by its conduct or otherwise (a) to observe the provisions of the 'Model Code of Conduct for Guidance of Political Parties and Candidates' as issued by the Commission in January, 1991 or as amended by it from time to time, or (b) to follow or carry out the lawful directions and instructions of the Commission given from time to time with a view to furthering the conduct of free, fair and peaceful elections or safeguarding the interests of the general public and the electorate in particular, the Commission may, after taking into account all the available facts and circumstances of the case and after giving the party reasonable opportunity of showing cause in relation to the action proposed to be taken against it, either suspend, subject to such terms as the Commission may deem appropriate, or withdraw the recognition of such party as the National Party or, as the case may be, the State Party.]”

5. In addition to the aforesaid, as informed by Shri O.P. Srivastava, learned Senior Counsel appearing for the Election Commission, any violation of the Model Code of Conduct is reported, the same also amounts to a criminal offence and as such, the Commission ensures lodging of an F.I.R. in that regard through the officials under its control and

superintendence, but these are activities only during the period the elections are notified.

6. According to the learned Senior Counsel, other action which the Election Commission takes for such violation includes issuance of show-cause notice, strict reprimand, censure, ban on campaigning, suspension of status of Star Campaigner, etc., imposed on candidate/party members found violating or flouting MCC norms.

7. Further, under Section 123(3) of Representation of The People Act, 1951 (hereinafter referred to as Act, 1951), the appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate, subject to the proviso to it, is deemed to be a corrupt practice for the purposes of the Act, 1951. This, however, would be the subject matter of an Election Petition in terms of the Act, 1951.

8. In this context, Section 8-A and 100 of the Act, 1951 are also relevant, which reads as under:-

"[8-A. Disqualification on ground of corrupt practices.—(1)
The case of every person found guilty of a corrupt practice by an order under Section 99 shall be submitted, [as soon as may be within a period of three months from the date such order takes effect], by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period:

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under Section 99 takes effect.

(2) Any person who stands disqualified under Section 8-A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.

(3) Before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.]

100. Grounds for declaring election to be void.—*[(1) Subject to the provisions of sub-section (2) if [the High court] is of opinion-*

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act [or the Government of Union Territories Act, 1963 (20 of 1963)]; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance or any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate [by an agent other than his election agent], or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

[the High Court] shall declare the election of the returned candidate to be void.]

[(2)] If in the opinion of [the High Court], a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but [the High Court] is satisfied

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and [without the consent], of the candidate or his election agent;

* * * *

(c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

(d) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then [the High Court] may decide that the election of the returned candidate is not void."

9. As regards, the period during which no elections are in process, recently, the Government of U.P. has issued a Government Order dated 21.09.2025 which, *inter alia*, deals with the subject of caste based political rallies also. The said Government Order has been issued after certain orders passed on 16.09.2025 in Criminal Misc. Application under Section 482 Cr.P.C. bearing No. 31545 of 2024 (Praveen Chetri vs. State of U.P. and Another). The said proceedings of course related to a different matter but the order passed therein became a catalyst for the State Government to visit ancillary issues and the result is the aforesaid Government order. Paragraph No. 3 and 4 of the said Government order, which are relevant, read as under:-

"3. मा० उच्च न्यायालय के उपरोक्त निर्णय एवं शासन की नीति के आलोक में निम्नलिखित दिशा-निर्देश निर्गत किये जा रहे हैं:-

- (1) सीसीटीएनएस पोर्टल पर प्रयोग किये जा रहे प्रारूपों में अभियुक्तों की जाति अंकित करने सम्बन्धी *Field* को *Delete* करने तथा अभियुक्त के पिता के नाम के साथ माता का नाम भी अंकित किये जाने हेतु सीसीटीएनएस पोर्टल में आवश्यक व्यवस्था करने हेतु NCRB से पत्राचार किया जाए।

- (2) NCRB द्वारा सीसीटीएनएस में उपरोक्त व्यवस्था किये जाने तक डेटा प्रविष्टि करने वाले सभी कार्मिकों द्वारा सीसीटीएनएस में जाति सम्बन्धी सूचना अंकित करने के गैर अनिवार्य (Non Mandatory Field) को बिना भरे खाली छोड़ दिया जाए ।
- 3) थानों के नोटिस बोर्ड्स पर अभियुक्तों के नाम के साथ उनकी जाति का उल्लेख न किया जाए।
- (4) बरामदगी पंचनामा, गिरफ्तारी मेमो तथा व्यक्तिगत तालाशी मेमो आदि में भी अभियुक्तों की जाति का उल्लेख नहीं किया जाए ।
- (5) पुलिस द्वारा तैयार किये जाने वाले अभिलेखों आदि में अभियुक्त के पिता के नाम के साथ-साथ अभियुक्त की माता का नाम भी अंकित किया जाए ।
- (6) वाहनों, सार्वजनिक स्थानों पर जाति के नाम अथवा जाति को महिमामंडित करने सम्बन्धी स्लोगन/स्टीकर आदि लगाकर चलने वाले वाहनों का केन्द्रीय मोटर वाहन अधिनियम-1988 की उपयुक्त धाराओं के अन्तर्गत चालान किया जाए।
- (7) कस्बों, तहसीलों और जिला मुख्यालयों में, कतिपय तत्वों द्वारा जातिगत या अभिमान के कारण जाति का महिमामंडन करने वाले तथा भौगोलिक क्षेत्रों को जातिगत क्षेत्र या जागीर घोषित करने वाले साइनबोर्ड्स या घोषणाओं को तत्काल हटाते हुए भविष्य में ऐसे कोई भी बोर्ड्स आदि न लगाने हेतु प्रभावी कदम उठाए जाएँ ।
- (8) राजनीतिक उद्देश्यों से आयोजित जाति आधारित रैलियां आदि समाज में जातीय संघर्ष को बढ़ावा देती हैं, जो "लोक-व्यवस्था" और "राष्ट्रीय एकता" के विपरीत है। इन पर उत्तर प्रदेश राज्य में पूर्ण प्रतिबंध रहेगा।
- (9) सोशल मीडिया पर किसी जाति को महिमामंडित करने तथा किसी जाति की निंदा करने वाली सोशल मीडिया संदेशों पर कड़ी निगरानी रखी जाए। सोशल मीडिया के माध्यम से जातिगत द्वेष फैलाने अथवा जातिगत भावनाओं को उद्देलित करने वालों के विरुद्ध कठोर कार्यवाही की जाए।
- (10) यदि किसी अधिनियम के अन्तर्गत कानूनी बाध्यता होने पर जाति का नाम अंकित किये जाने की छूट प्रदान की गयी है, यथा: अनुसूचित जाति/अनुसूचित जनजाति अत्याचार निवारण अधिनियम के अन्तर्गत

कारित अपराधों की विवेचना करने वाले विवेचक अभियुक्त एवं पीड़ित की जाति अंकित कर सकते हैं।

4. अतः निर्देश है कि विषयगत प्रकरण में मा० उच्च न्यायालय, इलाहाबाद द्वारा दिये गये उक्त आदेशों के अनुपालन में शासन द्वारा पारित उपर्युक्त दिशा-निर्देशों का तत्काल प्रभावी अनुपालन सुनिश्चित कराते हुए अधीनस्थ अधिकारियों को प्रशिक्षित कर इस संबंध में व्यापक जागरुकता भी सुनिश्चित की जाए।”

Paragraph no. 3(8) of the aforesaid Government Order, quoted above, is relevant in the context of relief no.1.

By the said provision, ban has been imposed upon caste based rallies organized with political motive, as they promote caste division in society, as per the State Government.

10. In view of the above discussion, provision for banning of caste based political rallies and preventing them is very much in place, whether it be during the election process or not. The only thing which remains is the will to implement the provisions effectively without any bias or favour. It is for the concerned Government or the Election Commission to look into this aspect and do the needful.

11. If the existing statutory provisions are to be made more effective, it is for the legislature to do so. In this regard, it is open for the Petitioner- Moti Lal Yadav and the learned Amicus to make their suggestions to the concerned authorities. In fact, learned Amicus Shri Rajat Rajan Singh has proposed the following reforms in his written submissions:-

"Recommendations for Reform

The current framework is clearly insufficient to curb the divisive potential of caste-based politics while protecting legitimate political discourse. To address these shortcomings and create a more coherent and effective regulatory regime, the following reforms should be considered:

1. Legislative Reform of the RPA, 1951: Parliament should consider amending the Representation of the People Act to provide greater clarity. This could involve creating a clearer, more nuanced definition of what constitutes a prohibited appeal to caste under Section 123(3). The amendment could introduce a distinction, however difficult, between speech that promotes social enmity and hate, and speech that articulates the legitimate social, economic, and political grievances of historically marginalized communities. This would help bridge the gap between the majority and dissenting opinions in *Abhiram Singh*.

2. Empowering the Election Commission of India: The enforcement vacuum" is the most critical weakness in the current system. A legislative amendment is required to grant the ECI clear statutory powers to monitor and act upon complaints of political activities or speech that promote social disharmony on the grounds of caste, even during the non-election period. This could include the power to issue binding directions, impose penalties, or recommend the initiation of criminal proceedings under the IPC.

3. Strengthening Political Party Accountability: The current legal framework primarily targets individual candidates. To foster systemic change, accountability must be extended to political parties. The rules governing the registration and recognition of political parties under Section 29A of the RPA should be amended to include provisions for issuing warnings, imposing significant financial penalties, or even suspending the recognition of a party for a limited period if its prominent leaders are repeatedly found to be indulging in hate speech or making divisive, caste-based appeals that violate the spirit of the Constitution and electoral law. This would create a strong institutional deterrent against the use of divisive politics as a core strategy."

These proposed reforms can be looked into by the concerned Legislature/Government and/or the Election Commission of India, whosoever may be empowered to take suitable action in this regard. Further, this Court has been brought to the notice that The State Government has also issued circular for implementation of the Government Order dated 21.09.2025. How it is being implemented and in what manner, is for the State Government to periodically review, assess and take further suitable action for making the Government order as

effective as it should be, but within the confines of the Constitution and the prevailing law.

12. In the event the aforesaid provisions of law or the Government order, as the case may be, are not being implemented appropriately, it is open for the petitioner or the learned Amicus to collect instances of relevant data and take suitable action as per law, which may include approaching this Court in the form of a P.I.L., if there is a cause.

13. We do not venture into this aspect of the matter at this stage, as we do not have relevant upto date data before us.

14. As regards, relief no.2 in the writ petition, as of now there is no such provision in law which permits a complete ban on any person or political party which is desirous of contesting any election, if he/it is found to be dividing the society/voters, on the basis of caste or religion. The only provision in this regard is under Section 8-A of the Act, 1951, which entails disqualification that too, after one has been found guilty as referred therein. This is also an issue which falls within the domain of the legislature, therefore, the petitioner will have to take up this issue with the Members of the Legislature, which is competent in this regard.

15. As regards, relief no.3 in the writ petition, learned Amicus has brought to our notice a Judgment of Hon'ble Supreme Court in ***Indian National Congress vs. Institute of Social Welfare and others***, decided on May 10, 2002 reported in ***[2002] 3 S.C.R. : (2002) 5 SCC 685*** wherein this issue came up for consideration and the Hon'ble Supreme Court opined that there is no such power vested in the Election Commission to de-register a political party. Then Lordships held as under-

"38. We have already extensively examined the matter and found that Parliament consciously had not chosen to confer any power on the Election Commission to deregister a political party on the premise that it has contravened the provisions of sub-section (5) of Section 29-A. The question which arises for our consideration is whether in the absence of any express or implied power, the Election Commission is empowered to cancel the registration of a political party on the strength of the provisions of Section 21 of the General Clauses Act. Section 21 of the General Clauses Act runs as under:

"21. Power to issue, to include power to add to, amend, vary or rescind, notifications, orders, rules or bye-laws.— Where, by any Central Act or regulation, a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any) to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued."

39. On perusal of Section 21 of the General Clauses Act, we find that the expression "order" employed in Section 21 shows that such an order must be in the nature of notification, rules and bye-laws etc. The order which can be modified or rescinded on the application of Section 21 has to be either executive or legislative in nature. But the order which the Commission is required to pass under Section 29-A is neither a legislative nor an executive order but is a quasi-judicial order. We have already examined this aspect of the matter in the foregoing paragraph and held that the function exercisable by the Commission under Section 29-A is essentially quasi-judicial in nature and order passed thereunder is a quasi-judicial order. In that view of the matter, the provisions of Section 21 of the General Clauses Act cannot be invoked to confer powers of deregistration/cancellation of registration after enquiry by the Election Commission. We, therefore, hold that Section 21 of the General Clauses Act has no application where a statutory authority is required to act quasi-judicially.

40. It may be noted that Parliament deliberately omitted to vest the Election Commission of India with the power to deregister a political party for non-compliance with the conditions for the grant of such registration. This may be for the reason that under the Constitution the Election Commission of India is required to function independently and ensure free and fair elections. An enquiry into non-compliance with the conditions for the grant of registration might involve the Commission in matters of a political nature and could mean monitoring by the Commission of the political activities, programmes and ideologies of political parties. This position gets strengthened by the fact that on 30-6-1994 the Representation of the People (Second Amendment) Bill, 1994 was introduced in the Lok Sabha proposing to introduce Section 29-B whereunder a complaint could be made to the High Court within whose jurisdiction the main office of a political party is situated for cancelling the registration of

the party on the ground that it bears a religious name or that its memorandum or rules and regulations are no longer conforming the provisions of Section 29-A(5) or that the activities are not in accordance with the said memorandum or rules and regulations. However, this Bill lapsed on the dissolution of the Lok Sabha in 1996 (see p. 507 of How India Votes: Election Laws, Practice and Procedure by V.S. Rama Devi and S.K. Mendiratta).

41. *To sum up, what we have held in the foregoing paragraph is as under:*

1. That there being no express provision in the Act or in the Symbols Order to cancel the registration of a political party, and as such no proceeding for deregistration can be taken by the Election Commission against a political party for having violated the terms of Section 29-A(5) of the Act on the complaint of the respondent.

2. The Election Commission while exercising its power to register a political party under Section 29-A of the Act, acts quasi-judicially and decision rendered by it is a quasi-judicial order and once a political party is registered, no power of review having been conferred on the Election Commission, it has no power to review the order registering a political party for having violated the provisions of the Constitution or for having committed breach of undertaking given to the Election Commission at the time of registration.

3. However, there are exceptions to the principle stated in paragraph 2 above where the Election Commission is not deprived of its power to cancel the registration. The exceptions are these:

(a) where a political party has obtained registration by practising fraud or forgery;

(b) where a registered political party amends its nomenclature of association, rules and regulations abrogating therein conforming to the provisions of Section 29-A(5) of the Act or intimating the Election Commission that it has ceased to have faith and allegiance to the Constitution of India or to the principles of socialism, secularism and democracy or it would not uphold the sovereignty, unity and integrity of India so as to comply with the provisions of Section 29-A(5) of the Act; and

(c) any like ground where no enquiry is called for on the part of the Commission.

4. The provisions of Section 21 of the General Clauses Act cannot be extended to the quasi-judicial authority. Since the

Election Commission while exercising its power under Section 29-A of the Act acts quasi-judicially, the provisions of Section 21 of the General Clauses Act have no application.

42. *For the aforesaid reasons, the appeals deserve to be allowed in part. Consequently, directions (iii) and (iv) of the impugned judgment are set aside. The appeals are allowed in part. The contempt petitions are rejected. There shall be no order as to costs."*

16. In essence the Hon'ble Supreme Court has held that the Election Commission is not empowered to de-register a political party subject to the exceptions enumerated in the above quoted extract of the Judgment.

17. As far as recognition of a recognized political party is concerned, the same can be suspended or withdrawn under paragraph no. 16-A of The Election Symbols (Reservation and Allotment) order, 1968 which has already been quoted earlier, therefore, we are of the opinion that, relief no.3 can also not be granted by us in this P.I.L. The petitioner may pursue this issue also with Members of the Legislature concerned, as only they are competent to consider inclusion of any such provision and law in the statute.

18. We hope and trust that the concerned authorities of the State shall implement the existing provisions of law on the subject matter in issue, as dealt with herein-above, in letter and spirit and in an effective manner so that the noble objects sought to be achieved by these provisions of law are not reduced to a mere paper work.

19. In fact, a permanent solution to such problems is inculcation of proper values in the family system and the schooling system so that the child, when he/she grows up, should have the right values and mindset and ought not to be persuaded merely by consideration of caste or religion, in tandem with the social fabric of our great country which also

amounts to imbibing with the spirit of Article 51-A(e) of the Constitution of India. No doubt formulation and effective implementation of the statutes, as discussed herein-above, plays a pivotal role in curbing such narrow outlook, however, everything can't be controlled and regulated by these statutes and laws. Inculcation of right values at the appropriate stages of life, which the family system and the education system can do, will go a long way in curbing these parochial loyalties and encouraging a feeling of fraternity and mutual trust. It is at all pyramidal levels that we need to work individually, as also through the society, and, where required, through the executive and the legislature concerned, to achieve our shared goal of nation building, as has been envisaged by our Constitution.

20. We appreciate the valuable assistance provided by learned Amicus Shri Rajat Rajan Singh in this matter of public interest, as also, the assistance provided by the Petitioner Shri Moti Lal Yadav an Advocate practicing in this Court and appearing in person.

21. With the aforesaid observations, we **dispose of** the present writ petition.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

January 19, 2026

Praveen