

SUPREME COURT OF INDIA

Sukhad Raj Singh

Vs.

Ram Harsh Misra

C.A.No.871 of 1975

(Y. V. Chandrachud and P. K. Goswami, JJ.)

04.11.1976

JUDGEMENT

CHANDRACHUD, J.:-

1. Both parties agree that all the disputed votes should be recounted and that the result of the election should be declared on the basis of such recounting. The recounting of undisputed votes done by the High Court under its order dated November 5, 1974 shall stand undisturbed. These undisputed votes, and the votes secured by the respective candidates as a result of recounting of disputed votes to be done under this order, shall both be taken into account for the purpose of determining as to which candidate has polled the largest number of votes.

2. The recounting of disputed votes shall be done by or under the personal supervision of the Joint Registrar of the High Court of Allahabad, Lucknow Bench. Parties, their counsel, and their agents not exceeding three in number for each party shall be permitted to remain present at the time of recounting.

3. Both sides agree that the election petition and the appeal before us shall stand finally disposed of with this order and that no further proceedings will lie or be taken by either of the parties, after the result of the election is declared by the Joint Registrar of the High Court. This agreement, we may add, does not violate any of the provisions of the Representation of the People Act, 1951 including section 97 thereof. After giving a full hearing to the counsel appearing before us for the respective parties, we had indicated that in the facts and circumstances of this case it was unnecessary for the appellant to file a recriminatory petition since the election petitioner had failed to make out a case for inspection of the ballot papers. The dismissal by this Court of the special leave petition filed by the appellant against the order dated November 5, 1974 which was passed by the High Court for inspection of the ballot papers, does not in the circumstances justify the conclusion that this Court had confirmed on merits the orders of inspection.

4. We accordingly direct the Joint Registrar to take necessary steps pursuant to this order and declare the result of the election within four weeks from today. The stay granted by this Court will continue until the result of the election is declared.

5. There will be no order as to costs.

Order accordingly.