

**SUPREME COURT OF INDIA**

Rajesh Kumar

Vs.

State of Uttarkhand

C.A.No.5856 of 2009

(Tarun Chatterjee and R.M.Lodha JJ.)

28.08.2009

**ORDER**

**Tarun Chatterjee, J.**

1. Leave granted.

2. This appeal is filed at the instance of Rajesh Kumar, the appellant herein, challenging the impugned order passed by a learned Judge of the High Court of Uttarakhand at Nainital by which an application for recall of an order dated 16th of October, 2008, directing the respondent No.3-Additional Director Education to decide the representation filed by the appellant dated 9th of September, 2008 in accordance with law, was allowed and consequent thereupon the writ petition of the appellant was dismissed summarily.

3. The election for Committee of Management of Janta Inter College, Majari Gummawala, District Haridwar, of which the appellant is one of the Life Member, was held on 23rd of October, 2005 after due process and procedure followed for the same in which the appellant was declared as Deputy Manager. As some dispute arose with regard to the induction of some forged members in the voters list, the election dated 23rd of October, 2005 was not approved by the respondent No.4-District Education Officer. Thereafter the Additional District Education Officer (Basic) inducted 35 members in the voters list. Another Life Member, Shri Vijendra Singh, filed a complaint before the respondent No.3 with regard to the induction of the said 35 forged members in the list of members. On the aforesaid complaint of Vijendra Singh, the respondent No.4 had investigated the matter and found that there was serious mismanagement which had taken control of the Management of the said College by furnishing false information and there was also monetary irregularities on the part of the present Committee of Management of the College. The appellant made a representation before respondent No.3 for redressal of his grievances. While finding that such representation was not considered by the concerned authorities, the appellant approached the High Court by filing a writ petition seeking the following relief:

Issue a writ, order or direction in the nature of mandamus, commanding/directing the respondent No.3 to decide the representation dated 9th of September, 2008.

4. By a final order dated 16th of October, 2008, the aforesaid writ petition was disposed of by a learned Judge of the High Court by the following order :- Having heard learned counsel for the parties and after going through the representation, this writ petition is summarily disposed of with the direction that respondent No.3 may decide the representation dated 9.9.2008, made by the petitioner challenging the validity of the elections held on 17.4.2007, in accordance with law, preferably within a period of six weeks after the certified copy of this order is produced before such authority.

5. After the said writ petition was disposed of in the manner indicated above, an application for recall was filed by one Smt. Rajbala, wife of Ashwani Kumar before the High Court and the said application by an order dated 3rd of November, 2008 was allowed and consequent thereupon the writ petition filed by the appellant was dismissed without even impleading her a party and giving an opportunity to the appellant to file his reply to the application for recall. It is this order which is now under challenge, on grant of leave, before us.

6. Having heard the learned counsel for the parties and after considering the nature of the order passed by the High Court disposing of the writ petition and the application for recall and in order to render justice between the parties, we are of the view that this appeal may be disposed of in the following manner :-

7. The order dated 16th of October, 2008 recalling the order passed by the High Court disposing of the writ petition and directing the authorities to consider the representation of the appellant is set aside. The concerned authority - respondent No.3 is directed to consider the representation of the appellant after hearing the appellant and other interested parties including Smt. Rajbala, wife of Ashwani Kumar and thereafter dispose of the same within three months from the date of supply of a copy of this order to respondent No.3 in accordance with law.

8. Accordingly, the appeal is disposed of with the above directions. There will be no order as to costs.