

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No.2414 (M/S) of 2014

Naresh Chandra Kala S/o Late Sri Ghananad Kala
.....Petitioner

Versus

State of Uttarakhand and others
.....Respondents

Present:

Mr. Rahul Consul, Advocate, present for the petitioners.

Mr. Vikas Pandey, Brief Holder, present for the State of Uttarakhand/respondent Nos. 1, 2 & 4.

Ms. Soniya Chawla, Advocate holding brief of Mr. Paresh Tripathi, Advocate for the respondent No.3.

Mr. Pankaj Miglani, Advocate present for respondent No.5.

Hon'ble Sudhanshu Dhulia, J. (Oral)

Heard Mr. Rahul Consul, Advocate for the petitioner, Mr. Vikas Pandey, Brief Holder present for the State/respondent Nos. 1,2 & 4, Ms. Soniya Chawla, Advocate holding brief of Mr. Paresh Tripathi, Advocate for the respondent No.3 and Mr. Pankaj Miglani, Advocate present for respondent No.5.

Petitioner was a candidate for election in a Cooperative Society. The elections for different ward were scheduled for 29.10.2014. It is undisputed that now in the State of Uttarakhand, a body has been constituted which is known as "Cooperative Election Authority, Uttarakhand", the power of superintendence, direction and control of these elections have been given to this authority under Section 29(3-a) of the Uttaranchal Co-operative Societies Act, 2003 which is reproduced as below:-

"(3-a) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all election to every co-operative society, constituted independent Co-operative Election Authority, shall be responsible, whose Chairman shall be nominated on such term and conditions as prescribed by the State Government."

The said body in its wisdom after analyzing a particular situation during elections has passed an order dated 09.10.2014 whereby the elections to certain wards are to be held again. The petitioners are aggrieved and have challenged the same.

The election process has already been notified and is on. No interference at this stage is called for, this is a position which stands settled by several decisions of Hon'ble Apex Court particularly in the case of **Mohinder Singh Gill v. Chief Election Commissioner** reported in **AIR 1978 SC 851** and since there is a mechanism in place for settlement of such disputes under Section 70 of the Uttaranchal Cooperative Societies Act, 2003, whereby such disputes are to be referred to Registrar under proviso to Section 70 of Uttaranchal Cooperative Societies Act, 2003, no interference presently is called for in the election matter.

In view thereof, no interference is called for. The writ petition being devoid of merit is dismissed in limine.

(Sudhanshu Dhulia, J.)

31.10.2014

JKJ