

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8333 OF 2013
(Arising out of SLP(C) No.2372/2011)

RAGHVENDRA KUMAR

Appellant(s)

:VERSUS:

PRABAL KUMAR & ORS.

Respondent(s)

O R D E R

Leave granted.

2. Heard Mr. Imtiaz Ahmed, learned counsel appearing for the appellant, Mr. D.K. Singh, learned counsel appearing for respondent No.1 and Mr. Rajesh Kumar Maurya, learned counsel appearing for respondent Nos.2 to 5. This appeal seeks to challenge the interim order dated 8.10.2010 passed by the Division Bench of the Allahabad High Court in Civil Misc. Writ Petition No.62085 of 2010, whereby the order dated 5.10.2010 passed by the Returning Officer of Block Madhogarh, District Jalaun, cancelling the nomination of respondent No.1, was stayed.

3. The first respondent wanted to contest election for Pradhan of Gram Panchayat Aheta, District Jalaun and he, therefore, filed his nomination paper which was accepted. Thereafter, by an order dated 5.10.2010 passed by the Returning Officer of Block Madhogarh, District Jalaun, his nomination was cancelled in view of his conviction under Section 307 of IPC. It was argued before the High Court that the first respondent was released on bail by virtue of an order passed by a learned Single Judge of the Allahabad High Court on 25.8.2005 in Criminal Appeal No.3676 of 2005. Apart from this order, the impugned order accepted the submission that the conviction of the first respondent did not involve moral turpitude and therefore, the order dated 5.10.2010 passed by the Returning Officer was stayed. Consequently, respondent No.1 contested the election and got elected as Pradhan of Gram Panchayat, Aheta.

4. Learned counsel for the appellant submitted that the order dated 25.8.2005 passed by the learned Single Judge was to admit the Criminal Appeal

No.3676 of 2005 and suspend the sentence against respondent No.1, but his conviction very much remained. Since it was a conviction under Section 307 IPC, it would certainly amount to an offence involving moral turpitude and, therefore, the Returning Officer was right in cancelling the nomination of respondent No.1 and the High Court had no reason to interfere therewith.

5. Mr. D.K. Singh, learned counsel appearing for the first respondent, on the other hand, submitted that the suspension of sentence by the learned Single Judge of the High Court has to be taken into consideration, which the Division Bench has done, while granting stay of the order passed by the Returning Officer.

6. We have noted the submissions of both the counsel. In our view, the order passed by the Division Bench of the High Court is patently wrong. Respondent No.1 was convicted under Section 307 IPC. It is another matter that he was released on bail, but the release on bail cannot be equated with acquittal from the offence for which he was already

convicted by the trial Court, and against which an appeal was pending its decision in the High Court. In the circumstances, we allow this appeal, set aside the order passed by the Division Bench of the Allahabad High Court. Both the counsel having made their submissions on the merits of Writ Petition No.62085 of 2010, nothing further remains to be argued in the High Court. Therefore, this writ petition shall as well stand dismissed. Consequently, the first respondent will vacate the office of Pradhan of Village Aheta Gram Panchayat, Block Madhogarh, District Jalaun. The appeal is allowed in these terms. No order as to costs. Registry is directed to send a copy of this order to Respondent No.4, District Election Officer, Jalaun, and Registrar (Judicial) of Allahabad High Court to mark the above Writ Petition No.62085 of 2010 as dismissed.

.....J
(H.L. GOKHALE)

.....J
(J. CHELAMESWAR)

New Delhi;
September 16, 2013.