

XI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8588/2003

(From the judgement and order dated 17/04/2003 in CMWP No. 22553/2001  
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

YOGENDRA SINGH

Petitioner

(s)

VERSUS

MAHABALI SINGH

Respondent

(s)

(With office report )

(For final disposal)

Date: 08/04/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner(s)

Ms. Rachana Srivastava, Adv.

For Respondent(s)

Mr. P.K. Jain, Adv.

UPON hearing counsel the Court made the following

O R D E R

Election for the Gram Pradhan and Members of the Gram

Panchayat - Gurha, Tehsil - Orai, District - Jalaun (U.P.)

was fixed for 24th June, 2000 in which seven candidates filed

their nominations for the office of Pradhan and contested

election. According to the figures obtained by Returning

Officer, it was found that a total number of 1484 voters had

exercised their franchise out of which 1415 votes were found

to be valid and 69 votes were invalid.

After counting of the votes, Returning Officer

declared Mahabali Singh, respondent herein, to be elected

without taking into consideration the bundle containing 171

votes which, according to the petitioner, had been cast in

his favour. There was a mistake in the tabulation chart.

On coming to know of the said mistake, the petitioner moved

an application to bring this fact to the notice of the

Returning Officer. Returning Officer realising his mistake

after four days recalled his order declaring the respondent

as the elected Pradhan and instead declared the appellant as  
elected Pradhan.

Aggrieved against the order of the Returning Officer,  
respondent filed an election petition under U.P. Panchayat  
Raj Act, hereinafter referred to as the 'Act'. The Election  
Tribunal, on being satisfied that the petitioner had been  
duly elected, dismissed the election petition.

Aggrieved against the order passed by the Election  
Tribunal, respondent filed a revision before the Additional  
District Judge/Special Judge(E.C.Act), Jalaun at Orai.  
Additional District Judge came to the conclusion that the  
declaration of result in favour of the respondent could be  
challenged by filing an election petition and that the  
Returning Officer after declaring the result did not have  
the jurisdiction to recall his order and declare the  
petitioner to be elected. The only remedy available to the  
petitioner was to file an election petition and accordingly,  
Additional District Judge accepted the revision petition,  
set aside the order of the Election Tribunal and declared  
the respondent to be the duly elected Pradhan.

Aggrieved against the order of the revisional court, the petitioner filed the writ petition in the High Court which has been dismissed by the impugned order. The High Court has relied upon a judgment of this Court in Sohan Lal vs. Baba Gandhi & Others reported in 2003 (1) SCC 108. Prayer made by the petitioner that he be allowed to file an election petition now was declined as the limitation for filing an election petition had already expired.

It seems that though the petitioner had been duly elected but he has been denied his right to be so declared because of the mistake on the part of the Returning Officer.

In order to do substantial justice between the parties, we direct the Returning Officer to make available the entire record pertaining to election of Pradhan including ballot papers to this Court on the next date of hearing i.e. 6th May, 2005.

Registry is directed to communicate this order to the District Magistrate, Jalaun (U.P.) who in turn should ensure the service of this order on the Returning Officer with a direction to produce the entire record including ballot papers in this Court on 6th May, 2005.

To come up on 6th May, 2005.

(Parveen Kr. Chawla)

Court Master

(T.K. Viswanadhan)

AR-cum-PS