

pIA In CIVIL APPEAL NO(s). 3455 OF 2008

ITEM NO.1 COURT NO.3 SECTION XVI

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

IA In CIVIL APPEAL NO(s). 3455 OF 2008

TAR KISHORE PRASAD Appellant (s)

VERSUS

RAM PRAKASH MAHTO Respondent(s)

(For ex-parte stay and office report)

Date: 22/07/2008 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE V.S.SIRPURKAR

For Appellant(s) Mr.P.S.Mishra, Sr. Adv.  
Mr. Amit Pawan, Adv.  
Mr. Manoj Kumar, Adv.

For Respondent(s) Mr. Nagendra Rai, Sr. Adv.  
Mr.Manglam, Adv.  
Mr.Gaurav Agrawal, Adv.

UPON hearing counsel the Court made the following  
ORDER

Distinguishing the order passed by the learned vacation Judge of this Court in the case of Indira Nehru Gandhi vs. Raj Narain & Another reported in (1975) 2 SCC 159 wherein a limited stay was granted as the corrupt practice was committed by the candidate itself, a Constitution Bench of this Court in the case of Kirpal Singh vs. Uttam Singh & Another reported in (1985) 4 SCC 621 held that where an election is set aside for no fault of the elected candidate but on the ground of someone else's impropriety, then there is no justification in refusing absolute stay of the judgment appealed against so IA In CIVIL APPEAL NO(s). 3455 OF 2008

that the constituency may not go unrepresented for no fault of either the elected or those who elected as the election has not been set aside on account of corrupt practice.

In view of the aforesaid position in law, we stay the operation of the impugned judgment of the High Court. The Application for Stay is allowed accordingly.

At the request of the learned senior counsel appearing for the respondent, we expedite the hearing of the appeal. Liberty to mention.

(Parveen Kr. Chawla)  
Court Master

(Kanwal Singh)  
Court Master