

ITEM NO.25

COURT NO.1

SECTION X

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

Writ Petition (Civil) No.980/2022

MOHAMMAD AZAM KHAN

Petitioner(s)

VERSUS

ELECTION COMMISSION OF INDIA & ORS.

Respondent(s)

(With IA No.168969/2022 - CLARIFICATION/DIRECTION and IA No. 168970/2022 - EXEMPTION FROM FILING O.T.)

Date : 09-11-2022 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. P. Chidambaram, Snr. Adv.
Mr. Nizam Pasha, Adv.
Mr. Javedur Rahman, AOR
Mr. Mudassir, Adv.

For Respondent(s) Mr. Arvind P. Dattar, Sr Adv.
Mr. Amit Sharma, Adv.
Mr. Dipesh Sinha, Adv.
Ms. Pallavi Barua, Adv.

Ms. Garima Prasad, Sr. Adv., AAG
Mr. Ajay Vikram Singh, Adv.
Ms. Priyanka Singh, Adv.
Ms. Priyanka Swami, Adv.
Ms. Pranjali Goel, Adv.
Mr. Sharjeel Ahamad, Adv.
Mr. Ashok Kumar Chaudhary, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 By an order dated 27 October 2022, the Additional Chief Judicial Magistrate, Special Court, MP-MLA, Rampur convicted the petitioner in connection with Case No 305/2019/FIR Case Crime No 185/2019, PS Milak for the following offences with corresponding sentences:
 - (i) Section 153A of the IPC – imprisonment for a period of 3 years and fine of Rs 2,000/-;
 - (ii) Section 505(1)(b) of the IPC – imprisonment for a period of 3 years and fine of Rs 2,000/-; and
 - (iii) Section 125 of the Representation of People Act 1951 – imprisonment for a period of 3 years and fine of Rs 2,000/-
- 2 On 28 October 2022, the Secretariat of the Legislative Assembly issued a Gazette notification declaring the 37-Rampur Assembly Constituency vacant.
- 3 On 5 November 2022, the Election Commission of India issued a Press Release declaring the schedule for by-elections in five assembly constituencies across various States including the 37-Rampur Assembly Constituency. The Gazette notification is due to be issued on 10 November 022.
- 4 The petitioner has instituted an appeal against the order of conviction today, on 9 November 2022. The Sessions Judge, Rampur, the Court is informed, has granted interim bail to the petitioner on an application being moved in that behalf. The petitioner has also sought a stay of the conviction which is posted for hearing on 15 November 2022.

- 5 In order to enable the petitioner to have an opportunity to move the Sessions Court to apply for stay of the conviction, we issue the following directions:
- (i) The Additional Sessions Judge, Rampur before whom the appeal has been filed shall pre-pone the hearing of the application for stay of conviction and take it up peremptorily on 10 November 2022;
 - (ii) The application for stay of conviction shall be disposed of by the Additional Sessions Judge on the same day, i.e. 10 November 2022; and
 - (iii) The Gazette notification for declaring the election schedule for the 37-Rampur Assembly Constituency may be issued on or after 11 November 2022 depending upon the outcome of the application for stay of conviction.
- 6 The order shall be communicated during the course of the day by the Registrar (Judicial) to the Sessions Judge, Rampur, Uttar Pradesh.
- 7 The Petition shall stand disposed of in the above terms.
- 8 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar