

ITEM NO.17+35

Court 3 (Video Conferencing)

SECTION XI

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

Petition(s) for Special Leave to Appeal (C) No(s). 13806/2021

(Arising out of impugned final judgment and order dated 09-08-2021 in WC No. 13629/2021 passed by the High Court Of Judicature At Allahabad)

RAGINI DEVI

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.112228/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.112230/2021-EXEMPTION FROM FILING O.T.)

SLP (C) No(s).4233/2021

IA No. 35672/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT & IA No. 35671/2021 - EXEMPTION FROM FILING O.T.)

Date : 17-09-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Mr. Nikhil Goel, Adv.
Mr. Ashwin V. Kotemath, Adv.
Mr. Ramjee Pandey, AOR
Mr. Varun Narang, Adv.

Dr. Sushil Balwada, AOR (NP)

For Respondent(s) Mr. S.R. Singh, Sr. Adv.
Mr. Ajay Singh, Adv.
Mr. Ram Kumar, Adv.
Mr. Debashish Mukherjee, Adv.
Mr. Lokesh Kumar Choudhary, AOR

Mr. Shubhranshu Padhi, AOR
Mr. Ashish Yadav, Adv.
Mr. Rakshit Jain, Adv.
Mr. Vishal Banshal, Adv.

*Mr. V.K. Shukla, Adv.
Mr. Kamendra Mishra, AOR

Mr. Arun Kumar Singh, Adv.
Mr. Santosh Kumar Tripathi, AOR

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

The principal argument of the petitioner(s) is that the status of Nagar Panchayat is not altered even though some new area has been added to its limits to make it a Municipal Council in terms of notification dated 31.12.2019 (Annexure P-4).

The argument though attractive, at the first blush, clearly overlooks the dispensation provided for under Article 243-Q of the Constitution of India. It refers to municipalities or Municipal Council areas of different types such as Nagar Panchayat, Municipal Council and Municipal Corporation, depending on the area and other factors to establish such an entity. Although, the notification refers to Section 3(2) of the Uttar Pradesh Municipalities Act, 1916 (for short, "the 1916 Act") the fact remains that the area in question has been upgraded to Municipal Council area. It is, therefore, not a case of expansion of Nagar Panchayat area as is sought to be projected by the petitioner(s).

Perhaps, keeping that in mind in another

case, the High Court vide order dated 09.08.2021 in Writ Petition(C) No. 13629 of 2021 rejected the claim of the petitioner(s) therein on the finding that the Nagar Panchayat of which the petitioner(s)' claim to be elected representative had ceased to be in existence with the creation of Municipal Council (Nagar Palika Parishad) as defined in sub-Section (9-B) of Section 2 of the 1916, Act and with the creation of new municipality by virtue of the stated notification, the provision of Section 333 of the 1916 Act would follow. That view is a possible view.

Hence, we decline to interfere in both the special leave petitions.

However, it is necessary to point out that the High Court while dismissing the writ petition on 08.02.2021 vide impugned judgment in SLP(C) No. 4233 of 2021 had directed the authorities to ensure that the election of newly created Municipal Council Siswan Bazar be held as early as possible and not later than three months. That period had elapsed long back and the administrator continues to be in charge of newly created Municipal Council. That cannot be countenanced. The administration of

the newly created Municipal Council ought to be entrusted to the elected representatives at the earliest opportunity, who will form the newly constituted Municipal Council.

Hence, we direct the State Election Commission to ensure that the elections for establishing the newly constituted Municipal Council Siswan Bazar, is conducted at the earliest and, in any case, completed within two months from today and report compliance in that behalf.

The State must ensure that all logistical support is provided to the State Election Commission to ensure that the elections are conducted by adhering to appropriate Covid-19 protocol, as would be in force at the relevant time.

If there is laxity on the part of the State in ensuring completion of the elections within two months from today, the Chief Secretary of the State of Uttar Pradesh shall be personally responsible in that behalf.

The compliance report be submitted within two months, which be placed before the Court for consideration soon thereafter.

Copy of this order be forwarded forthwith to the Chief Secretary, State of Uttar Pradesh and State Election Commission, Uttar Pradesh through email for information and necessary action.

The special leave petitions are disposed of accordingly.

Pending applications, if any, stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

*Appearance not received.