

HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW)

PUBLIC INTEREST LITIGATION (PIL) No. - 94 of 2022

Saurabh Kumar ShuklaPetitioner

Through :- Mr. Rakesh Kumar Chaudhary, Advocate

v/s

Election Commission of India, New Delhi andRespondents
others

Through :- Mr. Vijay Vikram Singh, Advocate for respondent
Nos.1 and 2

**CORAM : HON'BLE RAJESH BINDAL, CHIEF JUSTICE
HON'BLE JASPREET SINGH, JUDGE**

ORDER

1. Present petition has been filed in public interest raising an issue that the wife of respondent No.5 is working as Inspector General of Police, Lucknow Range whereas he is contesting election from 170-Sarojini Nagar Assembly Constituency.

2. Learned counsel for the petitioner, while referring to instructions issued by the Election Commission of India dated January 23, 1998, submitted that to ensure free and fair election, in case spouse of any candidate is employed in the constituency, he/she should be transferred. He further referred to various communications addressed to the Election Commission of India by a political party seeking transfer of the wife of respondent No.5. In support of his argument for entertaining the present petition, he referred to a judgment of Hon'ble the Supreme Court in **People's Union for Civil Liberties and another Vs. Union of India and another, (2013) 10 SCC 1** where the petition filed under Article 32 of the Constitution of India on the issue regarding secrecy of voting was entertained.

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3. After hearing learned counsel for the petitioner, we do not find any case is made out in the present petition.

4. Firstly, the petitioner has not complied with sub-rule 3-A of Rule 1 of Chapter XXII of the High Court Rules, as he has not furnished the credentials and details with reference to the aforesaid Rules, in the writ petition. All what is stated in paragraph 4 of the petition is that he is a person belonging to field of Media. Further, from the documents on record, it is evident that the issue, which is sought to be raised by the petitioner by filing public interest litigation, was raised by a political party with the Election Commission of India by filing representation as to the action thereon. The fact remains that the political party, which had raised the issue before the Election Commission of India, could have very well raised it before other forums, in case, it found that there was violation of any instructions issued by the Election Commission of India. Nothing has been pointed out in this regard. Further, number of letters written by a political party to the Election Commission of India have been placed on record in support of the argument, however, the source thereof has not been disclosed, which apparently would mean that it is a proxy litigation. Still further, there is no pleading in the writ petition to show as to how the instructions dated January 23, 1998 issued by the Election Commission of India are being violated. It only provides that the concerned officer should not leave his/her headquarter till the elections are completed. Nothing has been pointed out regarding the conduct of wife of respondent No.5 in this regard.

5. For the reasons mentioned above, we do not find any case is made out for entertaining the present petition in public interest. The same is, accordingly, **dismissed**.

(Jaspreet Singh, J.) (Rajesh Bindal, C.J.)

Lucknow
21.02.2022
AHA

Whether the order is speaking : Yes/No

Whether the order is reportable : Yes/No