

HIGH COURT OF AZAD JAMMU AND KASHMIR

Minister Incharge Local Govt. & Rural Development Department & others

V.

Raja Sajjad Ahmed Khan

PRESENT;

Mr. Akhlaq Hussain Kiani, AAG with Incharge Secretary Local Govt. and Election Commissioner Local Bodies.

Respondent in person.

ORDER:

The instant application has been moved for grant of extension to conduct elections of Local Bodies in month of October 2017. The aforesaid period solicited by applicants has already been elapsed. The applicants were directed to conduct elections of Local Bodies through judgment dated 06th March 2015. The operative part of the judgment is reproduced as under:-

“The crux of discussion is that by accepting the instant writ petition Government-respondent is directed to appoint Election Commissioner (Local Bodies) for organization, conduct and supervising of Local Bodies elections within one month. The respondents jointly and severally are also directed to hold Local Bodies elections throughout territorial limits of Azad Jammu and Kashmir within five months from the receipt of the instant judgment. The costs shall follow the eventuality.”

2. Against the aforesaid judgment, applicants filed a petition for leave to appeal before the Apex Court, which was dismissed vide judgment dated 03rd June 2015. The relevant para 4 of the aforesaid judgment is reproduced as under:-

“I have heard the learned counsel for the petitioners as well as the respondent and perused the record. The record reveals that the petitioners in the High Court claimed that it is the duty of the Government to conduct Local Bodies Elections in the light of the provisions contained in the Azad Jammu and Kashmir Local Government Act, 1990. The Government is not conducting the elections. The High Court after going through the provisions

of the Azad Jammu and Kashmir Interim Constitution Act 1974, and the Azad Jammu and Kashmir Local Government Act 1990, issued the directions in the terms indicated above. The only grievance of the petitioner is that due to financial constraint and the time required for delimitation of constituencies, it is not possible to conduct elections within the period fixed by the High Court. The learned counsel for the petitioners, failed to point out any illegality in the judgment of the High Court. Leave to appeal may be granted on a question of law. No legal question is involved in the petition for leave to appeal. Leave cannot be granted in every case only to create false hope to a litigant. The petition for leave to appeal merits dismissal. The same is hereby dismissed with no order as to the costs.

Before parting with, I may observe that the counsel for the petitioners has raised the question that due to financial constraint and the time required for delimitation, it is not possible to conduct the elections within the period fixed by the High Court. The petitioners are at liberty to move the High Court for grant of requisite time. ”

3. The applicants after decision of the aforesaid appeal, moved an application for extension of time before this Court, which was allowed and they were directed vide order dated 22nd December 2015, to implement the judgment till 06th April 2016. Against the aforesaid order, applicants filed CPLA No.72/2016, before the Hon’ble Supreme Court, which was also dismissed vide order dated 16th March, 2016. After dismissal of the aforesaid leave to appeal, applicants moved another application, before this Court, which was allowed and they were directed to conduct elections till 30th April, 2017. In the aforesaid order, it was observed as under:-

“The upshot of above discussion is that on the basis of undertaking filed by the learned Advocate General on behalf of petitioners, further time is extended to hold Local Bodies Elections throughout the territories of Azad Jammu and Kashmir till 30th April, 2017. It is, however, worthwhile to observe here that further extension

may not be expected from the Court for the purpose of holding and conducting Local Bodies Elections.”

4. The applicants prima facie failed to conduct elections as per judgments and orders supra. It appears that in order to frustrate the aforesaid judgments and orders, Govt.-applicant appointed Administrators through even dated notifications bearing Nos.AJK-SLG/73-84/2018, AJK-SLG/85-96/2018, AJK-SLG/97-108/2018, AJK-SLG/109-120/2018, dated 02, January 2018, respectively. The appointments of concerned Administrators are ex-facie violative of the basic provisions of section 79 (2) (b) and 99 of the Azad Jammu and Kashmir Local Government Act, 1990. Therefore, the aforesaid even dated notifications dated 02, January 2018, are hereby suspended till further order. The Commissioner Local Bodies submitted that despite forwarding as many as fourteen letters funds have not been supplied by the Government. The report of the Election Commissioner has been appended alongwith the file. The learned AAG, seeks time to place on record schedule of elections and in this regard, he solicited two weeks time. It is hoped that needful shall be done in the aforesaid period and in this respect learned AAG, is directed to file schedule of elections before the Court on 02.02.2018.

Muzaffarabad:
19.01.2018.(S)

CHIEF JUSTICE