

HIGH COURT OF UTTARAKHAND AT NAINITAL
HON'BLE THE CHIEF JUSTICE MR. G. NARENDAR
AND

HON'BLE SRI JUSTICE ALOK MAHRA

18TH JULY, 2025

WRIT PETITION (PIL) NO. 131 OF 2025

Akash BoraPetitioner.

Versus

State of Uttarakhand & othersRespondents.

Counsel for the Petitioner : Mr. Tajhar Qayyum, learned counsel.

Counsel for the State : Mr. J.C. Pande, learned Standing Counsel.

Counsel for State Election Commission : Mr. Sanjay Bhatt, learned counsel.

Counsel for respondent no.7 : Dr. Kartikey Hari Gupta and Ms. Irum Zeba, learned counsels.

ORDER:(per Mr. G. Narendar, C.J.)

Mr. Vivek Rai, Additional District Magistrate/ Electoral Registration Officer, Nainital and Ms. Monika Arya, Sub-Divisional Magistrate/ Assistant Electoral Registration Officer are present. We have pointed out the provisions of sub-rule (2) of Rule 5 and Rule 7 of the Uttar Pradesh Panchayat Raj (Registration of Electors) Rules, 1994.

2. Mr. Vivek Rai, Additional District Magistrate would commence his reply in Hindi. On a query as to whether he does not know English, he would submit that he can only understand English and cannot speak in English.

3. We reserve our opinion on the contentions made

by the ADM- ERO.

4. We have queried the same with the AERO, who has submitted that reliance has been placed on the Family Register.

5. We have once again reiterated our queries with regard to the basis or what is the exercise carried out to either authenticate the veracity of the entries of the Family Register, or as to whether any exercise has been done or any documents collected to ascertain the veracity of the claims made with the Booth Level Officer, who was part of the enumeration program. The officers present and the learned counsel for the State Election Commission, have stated, that apart from the reliance on the Family Register, there is no other material.

6. The Family Register is maintained by the Gram Panchayat Secretary as is mandated under the U.P. Panchayat Raj (Maintenance of Family Register) Rules, 1970. The Rules have been framed in exercise of the powers under Section 110 of the U.P. Panchayat Raj Act, 1947. Explanation to Rule 3 deals with the persons said to be ordinarily resident in a village. Though, the U.P. Panchayat Raj (Maintenance of Family Registers) Rules, 1970 and the Uttar Pradesh Panchayat Raj (Registration of

Electors) Rules, 1994 have been framed in exercise of Section 110 of U.P. Panchayat Raj Act, 1947, it is pertinent to note that the Uttar Pradesh Panchayat Raj (Registration of Electors) Rules, 1994, more particularly, Rule 7 nor any other Rule permits reliance on the Family Register.

7. On the other hand, Rule 7 limits such reliance to the register of births and deaths maintained under the Registration of Births and Deaths Act, 1969 and the Admission Register of Educational Institutions. Sub-rule (2) of Rule 5 permits the Electoral Registration Officer to adopt or rely on the Assembly constituency electoral roll for the purposes of preparation of the electoral roll. Rule 9 provides for applications by persons who desire to have their names entered into the electoral roll or applications by persons whose names have been erroneously left out.

8. From the above, it is prima facie apparent, that the Legislature, in its wisdom, has not deemed the Family Register as a document that can be relied upon by the Electoral Registration Officer for the purposes of finalizing the electoral roll of each constituency. Despite this, the glaring fact which stares at us is the consistent submission of the learned counsel for the State Election Commission and the officers, i.e. the ERO and the AERO, that the only document, that has been relied upon, to include names of

voters is the Family Register maintained under the 1970 Rules.

9. If the sanctity of the Family Register document was of such a high degree, probably the Legislature, in its own wisdom, would have referred to the said register in the Uttar Pradesh (Registration of Electors) Rules, 1994, which came about after the U.P. Panchayat Raj (Maintenance of Family Registers) Rules, 1970.

10. If this be the yardstick that has been adopted for the preparation of the electoral rolls across the State, the legality of the exercise becomes questionable. Hence, this Court is of the considered opinion, keeping in view the gravity and the magnitude of the issue at hand that the State Election Commissioner and the Chief Secretary, Government of Uttarakhand, appear before this Court virtually to look into the issue pointed out by this Court, and place their stands by way of affidavits.

11. List on 28.07.2025.

12. In the meanwhile, the State Election Commissioner and the Chief Secretary shall examine as to whether an officer of the cadre of Additional District Magistrate, who claims to have no knowledge of English or in his own words inability to convey in English, would be in

a position to effectively control an Executive post?

13. The presence of the ERO and AERO is dispensed with.

14. The Family Register and other documents be kept in safe custody of the Registrar (Judicial).

G. NARENDAR, C.J.

ALOK MAHRA, J.

Dated: 18th July, 2025

NISHANT