

# News

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## **The Allahabad High Court rejected a plea to stop Rahul Gandhi from running for the Lok Sabha.**

***The Bench decided that Gandhi's sentence had "no operative effect" after the Supreme Court stay, which meant that he could legally run in the 2024 election.***

The Allahabad High Court on Thursday turned down a plea that wanted to have Rahul Gandhi, the Leader of the Opposition, removed from the Lok Sabha.

***The petition was made by lawyer Ashok Pandey and asked for Gandhi to be removed from Lok Sabha because he was not qualified to be a Member of Parliament (MP) after being convicted in a defamation case by a Gujarat court.***

But the Court said that the Supreme Court put a hold on the sentence in August 2023.

A Bench of Justice Manjive Shukla and Justice Shekhar B Saraf said that when a sentence is stayed, the disqualification under Section 8(3) does not apply.

The Court said, "We believe that no big legal questions come up in this case, because the Supreme Court has clearly settled the case, and it is no longer res integra (not bound by prior decisions)."

In the 2024 Lok Sabha elections, Gandhi was voted as a Member of Parliament for the Rae Bareli district in Uttar Pradesh.

***In the petition, Pandey claimed that Rahul Gandhi was automatically disqualified under Section 8(3) of the Representation of the People Act, 1951 after being found guilty and ordered to two years' imprisonment by a Surat court in 2023 for defamation.***

Pandey says that the returning officer made a mistake by accepting Gandhi's nomination to the 2024 Lok Sabha elections, even though he wasn't qualified to run.

The Court said these claims were not true.

The Bench said that Section 8(3) attaches disqualification only when a conviction is effective. A stay of conviction, the judges noted, stops the legal consequences of that conviction from taking effect until the appeal is decided.

***"The moment a higher court stays a conviction, the anathema of conviction goes out of the window and the person against whom such conviction is stayed, though not absolved, cannot be stated to be a convicted person," said the Court.***

The Bench also distinguished between a stay of sentence and a stay of conviction, stating that only the latter removes the disqualification under the RP Act. In situations where only the sentence is suspended, the statutory bar will continue to apply, the Court made it clear.

Pandey had relied on the Supreme Court's decision in BR Kapur vs. State of Tamil Nadu-2001 to argue that a conviction continues to work until it is set aside on appeal.

***However, the High Court ruled that this reliance was misplaced. It pointed out that the BR Kapur case dealt with a situation where the sentence was stayed but not the conviction unlike the present case where the conviction itself had been stayed.***

The petitioner also compared Gandhi's case with that of Afzal Ansari 2023, saying that the Supreme Court had expressly permitted Ansari to contest elections while his appeal was pending, but had not done so for Gandhi.

The Bench rejected this distinction, holding that the legal result of a stay of conviction is the same irrespective of whether the apex court directly mentions contesting elections.

***The Court relied on the settled position laid down in the case of Lily Thomas v. Union of India to rule that a stayed conviction cannot cause disqualification.***

It stated that the question before it was already conclusively addressed by the Supreme Court and did not raise any new problem requiring reconsideration.

*Hence, it proceeded to dismiss the plea.*

Lawread