

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 825 of 2015

1. Dropati Yadav W/o Shri Jalsingh Yadav Aged About 45 Years R/o Village, Post Godkhamhi, P.S. & Tahsil Lormi, District Mungeli, (Chhattisgarh)

---- Petitioner

Versus

1. Smt. Sushila Devi Sahu, W/o Shri Badri Prasad Sahu Aged About 45 Years R/o Village, Post Godkhamhi, P.S. & Tahsil Lormi, District Mungeli, (Chhattisgarh)
2. Smt. Priti Shrivash W/o Shri Vinod Kumar Shrivash, Aged About 29 Years R/o Village, Post Godkhamhi, P.S. & Tahsil Lormi, District Mungeli, (Chhattisgarh)
3. Smt. Rajni Sahu W/o Shri Bikhram Sahu Aged About 27 Years R/o Village, Post Godkhamhi, P.S. & Tahsil Lormi, District Mungeli, (Chhattisgarh)
4. Smt. Lachan Devi Sahu W/o Shri Sushil Kumar Sahu Aged About 28 Years R/o Village, Post Godkhamhi, P.S. & Tahsil Lormi, District Mungeli, (Chhattisgarh)
5. Smt. Santosi Sahu W/o Rajesh Kumar Sahu Aged About 30 Years R/o Village, Post Godkhamhi, P.S. & Tahsil Lormi, District Mungeli, (Chhattisgarh)
6. Presiding Officer, K.S. Thakur, Lecturer, Government Higher Secondary School, Daupara, District Mungeli, (Chhattisgarh)
7. Presiding Officer J.S. Rajput, Government Girls Higher Secondary School, District Mungeli, (Chhattisgarh)
8. Presiding Officer, Prakash Narayan Srivastava, Sub Engineer, Sub Division, Water Resources Department, District Mungeli, (Chhattisgarh)
9. Presiding Officer. Badri Prasad Khare, Principal Primary School, Dhodhma, District Mungeli, (Chhattisgarh)
10. Presiding Officer. Ashok Bhaskar, Primary School Gadiya Navagaon, District Mungeli, (Chhattisgarh)

11. Returning Officer, (Panchayat), Tahsildar-Lormi, District Mungeli, (Chhattisgarh)
12. Sub Divisional Officer, Revenue Lormi, District Mungeli, (Chhattisgarh)

---- Respondent

For Petitioner	Shri Prateek Sharma, Advocate
For Respondent No.1	Shri O.P. Sahu, Advocate
For Respondent/State	Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/11/2015

1. Petitioner had unsuccessfully contested the election of Sarpanch of Gram Panchayat. Godkhamhi. In the said election, the respondent No.1 Smt. Sushila Devi Sahu was declared elected.
2. Challenging the election of respondent No.1, petitioner preferred election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam, 1993') read with the provisions contained under the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (for short 'the Rules, 1995'). It is this election petition, which has been dismissed in *limine* by the Sub Divisional Officer (Revenue), Lormi, District Mungeli, vide impugned order dated 6-4-2015.

3. The legal position as has been propounded by this Court in **Parvatia v. Padmini & Others**¹ is settled that the trial of election petition has to take place in accordance with Rule 11 of the Rules, 1995 unless the election petition is dismissed summarily under Rule 8 of the Rules, 1995
4. Bare perusal of the impugned order would indicate that the SDO (R), Lormi, has dismissed the election petition by a non-speaking and perfunctory order. It does not appear from the order that after issuance of notice to the respondents any objection as contemplated under Rule 8 of the Rules, 1995 was raised regarding maintainability of the election petition. Even if such objections were raised, the impugned order has not dealt with any such objection.
5. Be that as it may, in view of the law laid down by this Court in **Parvatia** (supra) the Election Tribunal is enjoined in law to proceed in the manner laid down under the Rules, 1995. The Election Tribunal has passed the impugned order in complete ignorance and violation of the procedure prescribed under the Rules, 1995, therefore, it is not sustainable.
6. In view of the above, the impugned order is set aside. The matter is remitted back to the Election Tribunal for holding the trial afresh, in accordance with the Rules, 1995.

1 2005 (2) CGLJ 335

7. Needless to say that the Election Tribunal shall issue notice to all the parties receive their reply, decide preliminary objections, if any, frame issues, record evidence and, thereafter, decide the election petition, in accordance with law and on its own merits.

Sd/-

Judge

Prashant Kumar Mishra

Gowri