

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1551 of 2015

1. Smt. Jhankeshwari Chandra W/o Shri Balram Chandra, Aged About 38 Years Vice President, Nagar Panchayat Jaijaipur, District Janjgir Champa R/o Jaijaipur, Police Station & Tahsil Jaijaipur, District Janjgir Champa Chhattisgarh Civil & Revenue District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Ministry Of Urban Administration & Development, Mahanadi Bhawan, Mantralaya, Naya Raipur Chhattisgarh
2. The Director, Directorate Of Urban Administration & Development, Naya Raipur. Chhattisgarh
3. The Collector, District Janjgir Champa Chhattisgarh
4. The Nagar Panchayat Jaijaipur, Throgh Chief Municipal Officer, Nagar Panchayat Jaijaipur, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner.	: Shri B. P. Sharma & Shri Sameer Uraon, Advocate.
For Respondent/State.	: Shri Vinod Tekam, panel Lawyer.

Order On Board

01/09/2015

Heard.

(1) This is second round of litigation by the petitioner for his nomination for the Office of President of Nagar Panchayat Jaijaipur, District Janjgir-Chanpa falling vacant due to subsequent events on account of disqualification of earlier President from working in the Office of Nagar

Panchayat due to his conviction. As no arrangement was made by the State Government in terms of Sub-Section (2) of Section 37 of the C.G. Municipal Act, 1961, the petitioner approached this Court by filing a writ petition WPC No. 635/2015 stating that though 8 out of 15 Councillors had recommended for the nomination of the petitioner as Executive/Working President of Nagar Panchayat, no appointment has taken place till date. The said writ petition was however, permitted to be withdrawn and a direction be given to the Collector to decide the pending writ petition.

(2) In the second round, the petitioner has approached this Court by submitting that despite the order of this Court, the Collector did not take any decision in the matter. The office of President has remained vacant since February, 2015. Due to non-appointment of working President under subsection 2 of Section 37 of Act of 1961, the work of Nagar Panchayat is suffering. As back as on 26.02.2015 the Chief Municipal Officer of Nagar Panchayat sent a memo to Director, Directorate of Urban Administration and Development for appropriate steps to be taken in view of order passed by the Court. However, till date nothing has been done.

(3) The provisions of sub-section 2 of Section 36 of the Act of 1961, required State Government to nominate one of the elected councillors to exercise power and duties of the President, until the vacancy in the office of President is filled in as provided in subsection (1) of Section 37 of the Act.

(4) It appears that the State Authorities have not acted to discharge their duties to take expeditious steps to make proper arrangement of a working President in terms of aforesaid provisions despite laps of more than six months. The legislative scheme does not contemplate such a situation and the spirit of the provisions required the State to nominate as early as possible, one of the elected councillor to work as President, which has not been done till date despite judicial intervention earlier.

(5) In these circumstances, a direction is required to be issued to the State Authorities to pass necessary orders in terms of sub-section 2 of Section 37 of the Act of 1961, to nominate a working President of the local body within a period of sixty days from today. Till the appropriate nomination by the State Government, in order to ensure proper functioning of the local body, it would be proper to make an interim arrangement by judicial order. Petitioner is said to be Vice President of the local body and his name was also recommended by 8 out of 15 councillors for being nominated as working President.

(6) Considering the present situation and also taking into consideration that under Section 52, in the exigency where the President is absent, the meetings are presided over by the Vice President of the Council, the petitioner shall be allowed to preside over the meetings of the council till the appropriate arrangement of nomination under Section sub Section 2 of Section 37 of the CG Municipal Act, 1961 as directed by this Court is completed by respondent/State.

(7) The State Counsel is directed to communicate this order to the State Government for taking necessary steps.

(8) Certified copy be supplied to both the parties.

Sd/-

Manindra Mohan Shrivastava

Judge

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