

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 2086 of 2015**

- Parmanand Rathore S/o Shri Babulal Rathore Aged About 38 Years R/o Village Navgaon, Tahsil And Thana Baloda, Distt. Janjgir Champa (Chhattisgarh)

---- Petitioner**Versus**

1. Tirathram Sahu S/o Ganeshram Sahu, Aged About 50 Years R/o Village Navgaon, Tahsil And Thana Baloda, Distt. Janjgir Champa (Chhattisgarh).
2. Anuj Kumar Sahu, S/o Firatram Sahu, Aged About 35 Years R/o Village Navgaon, Tahsil And Thana Baloda, Distt. Janjgir Champa (Chhattisgarh).
3. Ashok Kumar Sahu, S/o Syamlal Sahu, Aged About 48 Years R/o Village Navgaon, Tahsil And Thana Baloda, Distt. Janjgir Champa (Chhattisgarh).
4. Rajkumari Sahu, W/o Raghuraj Sahu, Aged About 33 Years R/o Village Navgaon, Tahsil And Thana Baloda, Distt. Janjgir Champa (Chhattisgarh).
5. Shri Prafull Kumar Gupta Presiding Officer Booth No. 97, Gram Panchayat Navgaon Vikas Khand Baloda, And Head Master Govt. Purve Madhyamik Shala Sighul, Tahsil Navagarh, Distt. Janjgir Champa (Chhattisgarh)
6. Rajesh Kumar Rathore Presiding Officer Booth No. 98, Gram Panchayat Navgaon, Vikas Khand Baloda, And Lecture, Govt. Purve Madhyamik Shala Sighul, Tahsil Navagarh, Distt. Janjgir Champa (Chhattisgarh)
7. Bhagwat Prasad Thawait, Presiding Officer Booth No. 99 Gram Panchayat Navgaon, Vikash Khand Baloda, And Head Master Govt. Purve Madhyamik Shala Putpura, Tahsil Janjgir, Distt. Janjgir Champa (Chhattisgarh)
8. Dinesh Chincholker, Tahsildar Election Officer, Janpad Panchayat Baloda, Distt. Janjgir Champa (Chhattisgarh)
9. Chief Executive Officer, Janpad Panchayat / Assistant Election Officer, Baloda, Distt. Janjgir Champa (Chhattisgarh)
10. Collector / Distt. Election Officer, Distt. Janjgir Champa (Chhattisgarh)
11. Sub Divisional Officer (R) Cum Prescribe Authority, Janjgir, Distt. Janjgir Champa (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate
For Respondents-State	:	Shri S. Majid Ali, PL for the State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

26/11/2015

1. Petitioner is aggrieved by the order passed by the Sub Divisional Officer (R)-cum-Prescribed Authority Panchayat Election, Janjgir on 25.03.2015, by which his election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam, 1993') has been dismissed in *limine*, at the motion stage, without issuing notice to the opposite party.
2. A reading of the impugned order makes it apparent that the Election Tribunal has not dismissed the election petition on any permissible ground in terms of the Rule 8 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices And Disqualification for Membership) Rules, 1995 (for short the 'Rules, 1995') for the reason that the election petition is apparently not maintainable for non-compliance of mandatory provisions. If the election petition does not suffer from any inherent defect making it inadmissible for deciding the same on merits, it is not within the jurisdiction of the election tribunal to dismiss the same at the motion stage without hearing the other side.
3. In the matter of ***Parvatia Vs. Padmini and ors (2005 (2) CGLJ 335)***, ***Shyam Ratan Vs. Siyaram and ors. (WP No.4270/05)*** and ***Bharat Vs. Tularam and ors. [WP(227) 2144/10]*** it has consistently been held by this Court that unless the election petition is required to be dismissed for non-compliance of mandatory provisions under Rule 8 of the Rules, 1995, the election tribunal is left with no other option but to hold trial on the election

petition by issuing notice to the other side, obtaining their return, frame issues, record evidence and pass final order thereafter.

4. Since the impugned order is apparently illegal and is in gross violation of the prescribed procedure under Rules, 1995 and particularly for the reason that the other parties were not issued notice by the election tribunal, the present writ petition is disposed of at the motion stage itself. The impugned order being palpably illegal, the same is set aside and the matter is remitted back to the election tribunal for holding trial of the election petition afresh, in accordance with law.

Sd/-

Judge

Prashant Kumar Mishra

ashu