

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 551 of 2015

Kamla Devi Tondon W/o Bhagwat Prasad Tondon, Aged About 40 Years Caste- Suryvanshi (Scheduled Caste), Sarpanch- Village Panchayat Meu, R/o Village- Meu, Post- Meu, Tahsil- Pamgarh, Civil & Revenue District- Janjgir- Champa, Chhattisgarh, Pin- 495554

---- Petitioner

Versus

1. Krishn Kumar Sharma S/o Shri Ghanshyam Prasad Upadhyay, Aged About 59 Years Posted As Sub Divisional Officer (Revenue), Pamgarh, Tahsil- Pamgarh, Civil & Revenue District- Janjgir-Champa, Chhattisgarh, Pin- 495554(Contemnor)
2. State Of Chhattisgarh, Through Its Chief Secretary, Mantralaya, Mahanadi Gate, Naya Raipur Capitol Complex, Raipur, Civil & Revenue District- Raipur, Chhattisgarh, Pin- 492001.

---- Respondents

For Petitioner	:	Shri Rajkamal Singh, Advocate with Shri Barun Kumar Chakrabarthy, Advocate.
For State	:	Shri Neeraj Kumar Sharma, Dy. G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/12/2015

Heard.

1. Learned counsel for the petitioner alleges that despite a direction given by this Court to decide the election petition after appropriate trial and recording of reasons, the respondent has again mechanically decided the case.

2. A perusal of order dated 30.10.2015 shows that the

respondent Election Tribunal again directed recount. The order has been passed recording that the parties despite opportunity have not led any oral and documentary evidence.

3. The submission of learned counsel for the petitioner is that even if oral and documentary evidence was not led by the parties, the Election Tribunal was required to record atleast some reason as to how recounting is considered necessary but the order is mechanical and therefore, it is contemptuous in nature.

4. Though this Court finds that the order appears to be mechanical in nature, the background of the order is that the parties have not led any oral and documentary evidence.

5. The petitioner has an arguable case on the merits that in the event of no oral and documentary evidence led by the parties, particularly election petitioner, the election petition deserves outright dismissal yet such a ground on merit may not be a basis for initiating contempt proceedings particularly when the respondent is acting as a quasi judicial authority.

6. Learned counsel for the petitioner fairly stated before the Court that the order of fresh recount is again subjected to challenge by filing a separate writ petition.

7. In view of the above, reserving all the grounds which have been raised here and those grounds which have already been raised by the petitioner in the writ petition, particularly taking into consideration that the respondent is functioning as a quasi judicial authority, I am not inclined to initiate contempt proceedings against him, however, the petitioner may raise before the writ Court, the grounds which are now being raised in the contempt petition.

8. With the aforesaid observations, the contempt petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
J U D G E