

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 609 of 2015

Kamla Devi Tondon W/o Bhagwat Prasad Tondon Aged About 40 years Caste-Suryawanshi, Sarpanch- Gram Panchayat - Meu, R/o Village- Meu, Post- Meu, Tahsil Pamgarh, Distt. Janjgir Champa, (Chhattisgarh)

---- Petitioner

Versus

1. Nilam Tondon, Aged About 25 Years W/o Nathlal Tondon Caste Suryawanshi, R/o Meu, Tehsil Pamgarh, Distt. Janjgir Champa, (Chhattisgarh)
2. Rajkumari Sarthi W/o Radhelal Sarthi, Caste Sarthi
3. Shyama Bai Kurre W/o Sahettar Kurre, Caste Suryawanshi
4. Sukrita Tondon W/o Dev Kumar Tondon, Caste Suryawanshi
5. Sunita Shastri W/o Ram Kumar
6. Sweta Bhaskar W/o Purushottam Bhaskar Caste Suryawanshi

From 2 to 5 R/o Village Meu, Tahsil Pamgarh, Distt. Janjgir Champa, (Chhattisgarh)

7. K.K.Sahu Sub Engineer, Sahdev Nagar, Nariyara, Tahsil- Akaltara, Distt. Janjgir Champa, (Chhattisgarh)
8. Kailash Markam Lecturer, Government High School, Pakariya (Jhulan) Tahsil Akaltara, Distt. Janjgir Champa, (Chhattisgarh)
9. Piyush Sharma Lecturer, Govt. High School, Pakariya (Jhulan), Tahsil Akaltara, Distt Janjgir Champa, (Chhattisgarh)
10. Palan Kumar Koshale Lecturer, Govt. High School, Pakariya (Jhulasn), Tahsil- Akaltara, Distt. Janjgir Champa, (Chhattisgarh)
11. Jivan Lal Yadav Government Purva Maa. Shala, Tilai, Tahsil Akaltara, Distt. Janjgir Champa, (Chhattisgarh)
12. D.K.Yadav Gramin Krishi Vistar Adhikari, Akaltara, Tahsil Akaltara, Distt. Janjgir Champa, (Chhattisgarh)
13. Yogesh Rathore, Lecturer, Govt. Girls Higher Secondary School, Akaltara, Distt. Janjgir- Champa, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Sanjay Patel, Advocate.
For Respondent No.1/Caveator	:	Shri S.C. Verma, Advocate.

Order On Board

04/08/2015

Heard.

Learned counsel for the petitioner assails correctness and validity of the impugned order dated 24.7.2015 on the sole submission that without recording any finding that a case for recount is made out, in a mechanical manner, the Election Tribunal has directed the records of the election to be summoned and counting to be made. He submits that this is contrary to the settled principles.

On the other hand, learned counsel for the respondent -Caveator submits that it was only after recording of evidence that the Election Tribunal was satisfied that the case for recount is made out for completion of trial.

I find that after collecting oral and documentary evidence, the Election Tribunal, without recording any finding that a case for recount is made out, has mechanically ordered recount which is impermissible under the law in view of the decision of the Supreme Court in the case of **Satyanarain Dudhani Vs. Uday Kumar Singh**, AIR 1993 SC 367.

Therefore, the impugned order cannot be sustained in law. The recount has to be subsequent to recording of finding and not before a finding that a case of recount is made out.

Accordingly, impugned order dated 24.7.2015 is set aside. The SDO shall first record finding upon appreciation of oral and documentary evidence collected during trial on the basis of pleadings of the parties and thereafter, if a finding of recount is recorded, then only it would be open for the Tribunal to order recount.

The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge