

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1611 of 2015

Meena Devi W/o Nyaya Kumar Barman, Aged About 29 Years R/o Bhatachowk Jharra,
Tahsil Malkharouda, District Janjgir Champa, (Chhattisgarh)

---- Petitioner

Versus

1. District Election Officer /Panchayat Election At Malkharouda, Civil And Revenue District Janjgir Champa, (Chhattisgarh)
2. The Returning Officer, Panchayat Election Janpad Panchayat Malkharouda, Civil And Revenue District Janjgir Champa, (Chhattisgarh)
3. The Sub Divisional Officer (Revenue), Sakti, Civil And Revenue District Janjgir Champa, (Chhattisgarh)
4. Nirmala Bai Dinkar, W/o Bhajoram Dinkar, Aged About 30 Years R/o Village And Post Taulipali, Block And Tahsil Malkharouda, Revenue And Civil District Janjgir Champa, (Chhattisgarh)
5. Mandakani, W/o Thandaram Bhardwaj, Aged About 29 Years R/o Village And Post Jharra, Block And Tahsil Malkharouda, Revenue And Civil District Janjgir Champa, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Ravish Verma, Advocate.
For Respondent/State	:	Shri Satish Gupta, Government Advocate on advance copy.

Order On Board

10/09/2015

Heard.

1. The petitioner has filed this petition under Article 226 of the Constitution of India challenging the very maintainability of the election petition on the ground that the Sub-Divisional Officer (Revenue) is not competent unless a notification of specified officer is issued under Rule 11 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification For Membership) Rules, 1995 (for short “the Rules of 1995”). The other submission is that the election petition suffers from non-compliance of mandatory provision contained in Rule 3 of the Rules of 1995. Therefore, the election petition is liable to be

summarily dismissed under Rule 8 of the Rules of 1995.

2. As far as the first objection is concerned, it does not hold in view of categorical provision contained in Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam which confers jurisdiction on Sub-Divisional Officer (Revenue) in the matter of challenge to election of Sarpanch of the Gram Panchayat. Once, the Act itself confers power on the Sub-Divisional Officer (Revenue), there is no further requirement of issuance of any other notification to confer jurisdiction. The provision of the Rules are only subservient to the provision contained in the Chhattisgarh Panchayat Raj Adhiniyam. Therefore, this objection is liable to be rejected.

3. As far as other objection with regard to maintainability of the election petition, on the stated ground in the petition are concerned, it is for the petitioner to raise such objection to the maintainability of the election petition before the Election Tribunal. This ground cannot be directly agitated before this Court.

4. With the liberty to the petitioner to raise all such objections as may be available to him under the law against the maintainability of the election petition on the alleged ground of non-compliance of Rule 3 of the Rules of 1995 or any other mandatory provision. The petition is dismissed.

Sd/-

Manindra Mohan Shrivastava

J U D G E