

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1347 of 2015

1. Champa Devi Bhagat W/o Daheshwar Ram Aged About 40 Years Caste Bhuiya, Residence Of Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh.

---- Petitioner

Versus

1. Manati Sidar W/o Dayanand Caste Gond, Residence Of Lapai, Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh. (Applicant / Petitioner)
2. Kunti W/o Mahanand Caste Khadiya, Residence Of Lapai, Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh.
3. Jaimani Nayak W/o Ajay Caste Khadiya, Residence Of Lapai, Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh.
4. Rajkumari W/o Shyam Lal Caste Uraon, Residence Of Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh.
5. Salomi Minj W/o Anthres Caste Uraon, Residence Of Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh. (Non-Applicants 2 To 5)
6. Sub Divisional Officer (Revenue) And Competent Authority Panchayat, Bagicha, District Jashpur, Chhattisgarh.
7. Presiding Officer, Election Booth No. 108, Lapai, Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh.
8. Presiding Officer, Election Booth No. 107, Semarkachar, Tahsil Kansabel, District Jashpur, Chhattisgarh.
9. Returning Officer, Panchayat Election Kansabel, Tahsil Kansabel, District Jashpur, Chhattisgarh. (Non- Applicant 6 To 8)

---- Respondent

For Petitioner	Shri Harish Khuntiya, Advocate
For Respondent No.1	Shri J.K. Saxena, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/01/2016

1. It is not disputed by learned counsel appearing for the parties that the respondent No.1's election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 has been allowed by the Election Tribunal i.e. Sub Divisional Officer (Revenue), Bagicha, District Jashpur without framing issues or recording evidence of the parties and declared the election of the writ petitioner herein, as void.
2. The election petition was preferred by the respondent No.1 to challenge the election of writ petitioner to the office of the Sarpanch, Gram Panchayat Semarkacher, on the ground that the writ petitioner does not belong to Scheduled Tribe and as such she is not eligible to contest the election against the seat reserved for Scheduled Tribe.
3. It is settled by this Court in **Parvatia v. Padmini & Others¹** and **Ajuram v. Shatruhan Sahu and Others²** that unless and until

¹ 2005 (2) CGLJ 335

² WPC No.2583 of 2011 (decided on 28.8.2012)

the election petition suffers from any fatal defect, warranting its dismissal in *limine* under Rule 8 of the Rules namely; Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (for short 'the Rules, 1995'); the same has to be tried as per the procedure laid down under Rule 11, as if it is a civil suit.

4. Considering the nature of pleadings raised in the election petition, it would appear that the election tribunal should have framed the issues, recorded evidence and passed the order in view of facts situation of the case in hand. Accordingly, the writ petition is allowed and the matter is remitted back to the Election Tribunal for decision afresh. Needless to say that the Election Tribunal shall obtain reply from all the parties, frame issues, record evidence of the parties and thereafter shall decide the same in accordance with law, within a period of six months from the date of submission of certified copy of this order.

5. There shall be no order as to costs.

Sd/-
Judge
Prashant Kumar Mishra

Gowri