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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2053 of 2015**

- Punabai W/o. Dwarika Kashyap, Aged About 42 Years R/o. Bhaismudi, Tahsil, Police Station And Post Nawagarh, Civil And Revenue District Janjgir Champa (Chhattisgarh).....Election Petitioner

---- Petitioner

Versus

1. State Of Chhattisgarh Through : Secretary, Panchayat & Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (Chhattisgarh)
2. Sub Divisional Officer (Revenue), Janjgir, Civil & Revenue District Janjgir Champa, (Chhattisgarh)
3. Anita Singh, W/o. Gopal Singh, Aged About 30 Years
4. Gouribai, W/o. Dhananjay Kashyap, Aged About 40 Years .
5. Bhuvneshwari, W/o. Virendra Kashyap, Aged About 30 Years .
6. Maltidevi, W/o. Manharan Suryavanshi, Aged About 25 Years .
7. Membai, W/o. Gopal Prasad Sahu, Aged About 33 Years .
8. Rambha Bai, W/o. Shatrughan Sahu, Aged About 35 Years .
9. Sanjulata W/o. Vinay Singh Kshatriya, Aged About 30 Years .
10. Shantibai, W/o. Vyas Karsh, Aged About 30 Years .

All above respondent No.3 to 10 are R/o Bhaismudi, Tahsil, Police Station And Post Nawagarh, Civil And Revenue District Janjgir Champa (Chhattisgarh)

11. Jitendra Kumar Mahilange, Lecturer (Panchayat), Govt. High School, Kharkhaud / Presiding Officer, Pooling Booth No. 188, Gram Panchayat, Bhaismudi, Tahsil, Police Station And Post Nawagarh, Civil And Revenue District Janjgir Champa (Chhattisgarh)
12. Vikrant Kumar, Lecturer (Panchayat), Govt. High School, Khorsi/ Presiding Officer, Pooling Booth No. 189, Gram Panchayat, Bhaismudi, Tahsil, Police Station And Post Nawagarh, Civil And Revenue District Janjgir Champa (Chhattisgarh)
13. Karunapati Tripathi, Lecturer (Panchayat), Govt. High School, Loharsi/ Presiding Officer, Pooling Booth No. 190, Gram Panchayat, Bhaismudi, Tahsil, Police Station And Post Nawagarh, Civil And Revenue District

Janjgir Champa (Chhattisgarh)

14. Gajendra Kumar Tiwari, Accountant, Govt. Higher Secondary School, Budgahan/ Presiding Officer, Pooling Booth No. 191, Gram Panchayat, Bhaismudi, Tahsil, Police Station And Post Nawagarh, Civil And Revenue District Janjgir Champa (Chhattisgarh)
15. Returning Officer (Panchayat), Janpad Panchayat, Nawagarh, Tahsil Nawagarh, Police Station And Post Nawagarh, Civil And Revenue District Janjgir Champa (Chhattisgarh)

---- Respondents

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

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/01/2016

1. By the impugned order passed by the Election Tribunal (for short 'the Tribunal') i.e. the Sub-Divisional Officer (R) , the petitioner's election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam, 1993') has been dismissed in *limine* without even calling the opposite parties to file reply to the election petition.
2. By now it is well settled by the catena of judgments that the election petition under Section 122 of the Adhiniyam, 1993 is to be tried as far as may be, as if, it is a civil suit. This view has been taken by this Court in the matter of **Parvatia Vs. Padmini and others, {2005 (2) CGLJ 335}** and **Smt. Karibai Vs. State of Chhattisgarh & others {WPC No.1036 of 2015}**.
3. In the case at hand, the election petition was filed on the ground that several valid votes have been declared invalid, which has materially affected the result of the election. Such allegation would definitely warrant submission of reply from all the parties, framing of issues and recording of evidence and

such other things which may be necessary to determine the election petition.

4. Unless and until election petition suffers from any fatal defect 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) the same has to be tried in the manner provided in Rule 11 of the Rules, 1995, therefore, the impugned order dismissing the election petition in *limine* is patently illegal and deserves to be quashed at the motion stage itself.
5. Accordingly, the writ petition is allowed, the impugned order is quashed and the Tribunal is directed to hold retrial of the election petition in accordance with Rule 11 of the Rules, 1995.

sd/-

Judge

Prashant Kumar Mishra

Ashu