

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1733 of 2016

- Brijesh Kumar Kurre S/o Jeevan, (Wrongly Written As Vijesh Kumar Kurre In The Impugned Order) Son of Jeevan, aged about 27 years, Caste Satnami, R/o Village Chandai, Tahsil Sarangarh, District Raigarh (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Panchayat & Rural Welfare Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh).
2. Sub Divisional Officer (Revenue) & Prescribed Authority, (Panchayat Election), Sarangarh, District Raigarh (Chhattisgarh).
3. Geetaram Kurre S/o Late Ram Prasad Kurre, Aged About 62 Years Caste Satnami, R/o Chandai, Tahsil Sarangarh, District Raigarh (Chhattisgarh).
4. Pawaram S/o Sohan, Aged About 28 Years Caste Satnami, R/o Chandai, Tahsil Sarangarh, District Raigarh (Chhattisgarh).
5. Assistant Election Officer, Tristariya Panchayat Election Sarangarh, Janpad Panchayat Sarangarh, District Raigarh (Chhattisgarh).
6. Presiding Officer, Election Booth No. 251, Gram Panchayat Chandai, Janpad Panchayat Sarangarh, Tahsil Sarangarh District Raigarh (Chhattisgarh).
7. Assistant Presiding Officer, Election Booth No. 251, Gram Panchayat Chandai, Janpad Panchayat Sarangarh, Tahsil Sarangarh District Raigarh (Chhattisgarh).

---- Respondent

For Petitioner
For Respondent /State

Mr. R. Pradhan, Advocate
Mr. Arun Sao, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

12/7/2016

1. Heard,
2. In this petition under Article 226 of the Constitution of India, the petitioner is challenging the order passed by the Election Tribunal i.e. SDO (Revenue), Sarangarh, who has directed to hold recount of the ballots for election of Panch of Ward No.3, Gram Panchayat, Chandai.
3. It is argued by learned counsel for the petitioner that the impugned order has been passed without framing issues or without recording evidence, therefore, in view of the law laid down by this Court in the matters of **Parvatia vs. Padmini and others, 2005 (2) CGLJ 335 and Ajuram vs. Shatruhan Sahu and others (W.P.(C) No.2583 of 2011 decided on 28.08.2012)**, the order is wholly unsustainable.
4. Learned counsel for the State would argue that the petitioner had in fact secured zero votes in the election, but at the time of tabulation, he was shown to have secured 34 votes, therefore, it is a case of calculation error, for which, no evidence is required and the only way to decide the Election Petition is by holding a recount.
5. Considering the law laid down by this Court in the matters of **Parvatia (supra)** and **Ajuram (supra)**, as also the arguments raised by learned State Counsel, the present writ petition is disposed of in the following terms:
6. The petitioner shall file his written statement/reply to the Election Petition within a period of 15 days from today. If any

other party to the Election Petition desires to file written statement, they may also do the same within 15 days. The SDO (Revenue) shall thereafter frame issues within next 15 days and record evidence of the parties within next one month. After the issues are framed and evidence is recorded, the Election Tribunal shall either implement the present impugned order dated 02.06.2016, if it still feels that a recount is necessary, or otherwise, the Election Tribunal would be at liberty to proceed in accordance with the evidence adduced by the parties. The Election Petition shall be disposed of by the Election Tribunal within a period of 09 weeks from today.

Sd/-

Judge

(Prashant Kumar Mishra)

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