

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1875 of 2015

1. Yashwanti Patel W/o Shri Rajendra Kumar Patel, Aged About 40 Years Caste Aghariya, R/o Village Bagrail, Tehsil & P.S. Dabhra, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. Dileshwari D/o Shri Usuklal, Aged About 30 Years Caste Kewat, R/o Village Mouhapali
2. Kantibai Manikpuri, D/o Shri Sarvedas, Caste Panika, Aged About 35 Years, Caste Panika, R/o Village Bagrail
3. Falguni Patel, W/o Shri Chintamani, Aged About 47 Years Caste Aghariya R/o Village Bagrail
4. Sarojani Patel, W/o Shri Sohanlal Patel, Aged About 28 Years Caste Aghariya
5. Hirabai Nishad, W/o Shri Ramnath Nishad, Aged About 36 Years R/o Mouhapali
6. Anuj Ram Bhardwaj (Head Master), Govt. Primary School, Chroudi, Presiding Officer Polling Booth No. 227
7. Tikaram Jangde, (Upper Division Teacher), Govt. Middle School, Amandula, Presiding Officer, Polling Booth No. 228
8. Rohit Kumar Maitri, (Upper Division Teacher), Govt. Middle School, Chapora, Presiding Officer, Polling Booth No. 229
9. Returning Officer, Panchayat), Block Dabhra
10. Sub Divisional Officer (Revenue), Dabhra

All are Tahsil And P.S. Dabhra, District Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner	Shri Pawan Shrivastava, Advocate
For Respondent No.1	Ms. Nand Kumari Kashyap, Advocate
For Respondent/State	Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/01/2016

1. Petitioner's election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 has been dismissed by the Election Tribunal i.e. Sub Divisional Officer (Revenue), Dabra, District Janjgir-Champa without framing issues or recording evidence of the parties.
2. The election petition was preferred to challenge the election of respondent No.1 to the office of the Sarpanch, Gram Panchayat Bagrail, on the ground that 74 votes were declared invalid and the said number of votes should have been counted in favour of the petitioner, therefore, the margin of victory being two votes only, wrongful rejection of valid votes has materially affected the election.
3. It is settled by this Court in **Parvatia v. Padmini & Others¹** and **Ajuram v. Shatruhan Sahu and Others²** that unless and until the election petition suffers from any fatal defect, warranting its

¹ 2005 (2) CGLJ 335

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

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