

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 886 of 2015

Ganesh Sai S/o Gangasai, Aged About 58 Years Caste Kanwar, Resident Of Village Pokpani, Tahsil Farsabahar, District Jashpur (Chhattisgarh) (Election Petitioner)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh)
2. The District Returning Officer, Jashpur, District Jashpur (Chhattisgarh)
3. The Returning Officer Panchayat, Farsabahar/ Tahsildar- S. K. Yadav, Tahsil Farsabahar, District Jashpur (Chhattisgarh)
4. The Nomination Officer/ Assistant Returning Officer, Panchayat Shri Dubey, Ranger Forest Range, Tapkara, District Jashpur (Chhattisgarh)
5. Veerkunwar S/o Baneshwar, Caste Bhuiya, Elected Sarpanch, Gram Panchayat Sundru, Block & Tahsil Farsabahar, District Jashpur (Chhattisgarh)
6. The Sub-Divisional Officer (Revenue), Kunkuri, District Jashpur (Chhattisgarh).

---- Respondents

Shri Rahul Mishra, counsel for the petitioner/s.
Shri Satish Gupta, Govt. Advocate for the State / respondents 1 to 4 and 6.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

05/02/2016

Heard on admission.

This petition is directed against order dated 17/09/2015 by which the election petition has been summarily dismissed.

2. Learned counsel for the petitioner submits that the election petition was dismissed without framing issues and without full fledged trial by recording oral and documentary evidence on record.

3. In view of the provisions contained in Rule 8 of Chhattisgarh Election Petitions (Corrupt Practices and Disqualification for Membership) Rules, 1995 (for short 'the Rules of 1995'), election petition can be dismissed if provisions of Rule 3, Rule 4 or Rule 7 is not complied with.

4. This is a petition where the election petition has been summarily dismissed without detailed trial. It is only when petition is not liable to be dismissed for non-compliance of Rule 3, 4, or 7 of the Rules of 1995, then it is required to be tried by framing issues and recording evidence that may be led by the contesting parties.

5. Learned counsel for the petitioner could not dispute that the petitioner had prayed for declaration that he be declared as elected candidate. Therefore, he was obliged, perforce legal requirement of Rule 4 to implead all the contesting candidates. That having not been done, it is apparent that non-compliance of Rule 4 resulted in dismissal of the election petition summarily without trial.

6. I find that the Sub Divisional Officer has made various observations in its order. Those observations have been made without any trial of the issue. Therefore, maintaining the impugned order, the observations are declared of no effect. The petition is accordingly finally disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge