

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 370 of 2016

1. Smt. Poornima Pushpakar, W/o. Sewaram Pushpakar, aged about 45 years, Ex-Ward Member, Nagar Panchayqat, Vishrampuri, District – Kondagaon (C.G.)
2. Smt. Kumeshwari Samrath, W/o. Dhannu Ram Samrath, aged about 41 years, Ex-President, Nagar Panchayat, Vishrampuri, District – Kondagaon (C.G.)
3. Smt. Pushpa Soni, Wd/o. Late Hemant Soni, aged about 55 years, Social Worker, District Kondagaon (C.G.)
4. Krishna Kumar Sahu, S/o. Hatoi Ram Sahu, aged about 49 years, President of Sahu Samaj District – Kondagaon (C.G.)
5. Girdhari Pandey, S/o. Ramsingh Pandey, aged about 60 years, Social Worker, District – Kondagaon (C.G.)

All are R/o. Dissolved Nagar Panchayat, Post Vishrampuri, Tahsil and Police Station – Vishrampuri, District Kondagaon (C.G.)

----Petitioners

Versus

1. State of Chhattisgarh, through the Secretary Department of Revenue, Mahanadi Bhavan, Mantralaya New Raipur, District – Raipur (C.G.)
2. The Collector, Kondagaon, District – Kondagaon (C.G.)
3. The Sub-Divisional Officer (R), Kondagaon, District Kondagaon (C.G.).
4. The Tahsildar, Kondagaon, District – Kondagaon (C.G.)
5. The Secretary, State Election Committee, D.K.S. Bhawan, Raipur, District – Raipur (C.G.).
6. District Election Officer, Kondagaon, District – Kondagaon (C.G.)

---- Respondents

For Petitioners : Dr. N.K. Shukla, Sr. Advocate with
Mr. Roshan Dubey, Advocate
For State/Respondent : Mr. Y.S. Thakur, Additional Advocate General

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23/12/2016

1. Challenge in this petition is to the order dated 29.11.2016 (Annexure P/1), whereby the District Magistrate has passed certain prohibitory orders in exercise of power under Section 144 (2) of Criminal Procedure Code.
2. Learned counsel for the petitioners would submit that two gram panchayats were divided in two sets i.e. Vishrampuri – A and Vishrampuri B, wherein certain area was included. The instant order has been passed by the District Magistrate, which violates the right of the people of the said area, consequently, the election which is scheduled to be held on 27.12.2016 be stayed.
3. Learned State counsel opposes the petition.
4. Perused the order dated 29.11.2016. Perusal of the order would show that the same is passed in exercise of power under Section 144 (2) of Cr.P.C. Further reading of the order would show that application of the order is for a limited period and special circumstances has been shown in order to complete ensuing election, which is scheduled to be held on 27.12.2016 and certain anticipatory restrictions orders have been passed up till 30.12.2016.

5. Considering the tenure of the order, since the prohibitory orders have been passed for peaceful and proper election. Reading of the order would show that order has spent almost time itself and the special circumstances has also been enumerated.
6. Taking into such fact I do not find that any jurisdictional error has been committed or the District Magistrate has exceeded the jurisdiction vested in it by law.
7. Accordingly, the petition has no merit and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge