

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 334 of 2016**

Order Reserved On : 13.12.2016

Order Passed On : 15.02.2017

- Smt. Amar Bai W/o Lok Kumar Gritlahare, Aged About 40 Years
R/o Village Pratappur, Police Station Pandatarai, Janpad
Panchayat Pandariya, District Kabirdham Chhattisgarh

---- **Petitioner****Versus**

1. Pratibha Panagar W/o Kanshi Panagar, Caste Mochi, R/o Village Mohgaon, Tehsil Pandariya, District Kabirdham Chhattisgarh
2. Amrika Navrang W/o Ramprasad, Caste Satnami, R/o Village Junglepur, Tehsil Pandariya, District Kabirdham Chhattisgarh
3. Urmila Patle, W/o Ishwari Patle, Caste Satnami, R/o Village Andhiyarikhor, Tehsil Pandariya, District Kabirdham Chhattisgarh
4. Kirti Diwakar W/o Tukaram Diwakar, Caste Satnami, R/o Village Andhiyarkhor, Tehsil Pandariya, District Kabirdham Chhattisgarh
5. Nandsati Joshi, W/o Jitendra, R/o Village Junglepur, Tehsil Pandariya, District Kabirdham Chhattisgarh
6. Malti Patre W/o Jwala Prasad, Caste Satnami, R/o Village Mohgaon, Tehsil Pandariya, District Kabirdham Chhattisgarh
7. Laxmanabai Bhaskar W/o Ramchand, Caste Satnami, R/o Village Pratappur, Tehsil Pandariya, District Kabirdham Chhattisgarh
8. Shivkumari Banjare W/o Udal Banjre, Caste Satnami, R/o Village Mohgaon, Tehsil Pandariya, District Kabirdham Chhattisgarh
9. Shyam Kumari Banjare W/o Bhawsingh, Caste Satnami, R/o Village Pratappur, Tehsil Pandariya, District Kabirdham Chhattisgarh
10. Shri Riruraj Bisen, Nayab Tahsildar Kunda And Returning Officer (Panchayat) Pandariya, District Kabirdham Chhattisgarh
11. Shri Padamsingh Marawi, (Presiding Officer Polling Booth No. 261) Lecturer (Panchayat) 30 Middle School, Rengakharkala, Tehsil Bodla, District Kabirdham Chhattisgarh
12. Shri Balram Arya, (Presiding Officer Polling Booth No. 262) Lecturer Panchayat Higher Secondary School, Minminiya, Tehsil

Bodla, District Kabirdham Chhattisgarh

13. Shri Manohar Singh Merawi, (Presiding Officer Polling Booth No. 263) Lecturer (Panchayat) Higher Secondary School, Bamhani, Tehsil Pandariya, District Kabirdham Chhattisgarh
14. Shri Dhansingh Jharia, (Presiding Officer Centre No. 264) Teacher Panchayat Primary School, Khara, Tehsil Bodla, District Kabirdham Chhattisgarh
15. Shri Dwarika Prasad Yadav, (Presiding Officer Polling Booth No. 269) Lecturer (Panchayat) Higher School, Taregaon (Jn) Tehsil Bodla, District Kabirdham Chhattisgarh
16. Shri Manohar Prasad Chandravanshi (Presiding Officer Polling Booth No. 270) Lecturer Panchayat Higher Secondary School, Taregaon (Jn) Tehsil Bodla, District Kabirdham Chhattisgarh
17. Shri Manoj Mishra, (Presiding Officer Polling Booth No. 271) Lecturer Panchayat, Higher Secondary School, Jhalmala, Tehsil Bodla, District Kabirdham Chhattisgarh
18. Shri Ajay Singh Tahkur (Presiding Officer Polling Booth No. 272) Lecturer Panchayat Higher Secondary School, Rauchan, Tehsil Bodla, District Kabirdham Chhattisgarh
19. Shri Chemandas Manikpuri, (Presiding Officer Polling Booth No. 273) Principal, Primary School, Jaitatola, Tehsil Bodla, District Kabirdham Chhattisgarh
20. Shri Roman Singh Marawi, (Presiding Officer Polling Booth No. 274) Lecturer Panchayat Higher Secondary School, Khara, Tehsil Bodla, District Kabirdham Chhattisgarh
21. Shri R.K. Verma, (Presiding Officer Polling Booth No. 275) Lecturer (Panchayat) Rural Agriculture Development Officer, Agriculture Department, Bodla, Tehsil Bodla, District Kabirdham Chhattisgarh
22. Shri Suresh Kumar Lanche (Presiding Officer Polling Booth No. 276) Principal Primary Baghutola, Tehsil Bodla, District Kabirdham Chhattisgarh (the respondents no.1 to 22 were non-applicants before Election Tribunal)
23. Specified Officer Cum Additional Collector, Kabirdham, District Kabirdham Chhattisgarh

---- Respondent

And

WPC No. 414 Of 2016

- Uma Chelse W/o Pawan Chelse, Aged About 32 Years R/o Village

Domanpur, Tehsil Pandariya, District Kabirdham, (Chhattisgarh)

----- **Petitioner**

Vs

1. Anita Devi W/o Rohit Bhaskar, Caste Satnami, R/o Village Bharewapara, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
2. Kanti Sendre, W/o Nand Kishore Sendre, Caste Satnami, R/o Village Damapur, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
3. Kirti Devi Kathle, W/o Sonraj Kathle, Caste Satnami, R/o Village Domanpur, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
4. Kaushilya Banjare, W/o Govind Banjare, Caste Satnami, R/o Village Domanpur, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
5. Navita Vibhagar, W/o Panchram, Caste Satnami, R/o Village Buchipara, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
6. Mongra Bhaskar, W/o Prem Bhaskar, Caste Satnami, R/o Village Karpikala, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
7. Lalita Barmate, W/o Shiv Prasad, Caste Satnami, R/o Village Jhiriya Khurd, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
8. Vijay Laxmi Chelse, W/o Mohan Singh Chelse, Caste Satnami, R/o Village Damapur, Block And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
9. Shri Rituraj Bisen, Nayab Tehsildar, Kunda And Returning Officer (Panchayat) Pandariya, District Kabirdham, (Chhattisgarh)
10. Shri Tekuram Chandravanshi, (Presiding Officer Polling Booth No. 101), Head Master, Govt. Middle School Neurgaon Khurd, Block Bodla, District Kabirdham (Chhattisgarh)
11. Shri Subhan Ali Aasmi, (Presiding Officer Polling Booth No. 102) Head Master, Govt. Middle School Nayapara (Raja), Block Bodla, District Kabirdham, (Chhattisgarh)
12. Dr. A.K. Nema, Veterinary Medical Assistant (Presiding Officer Polling Booth No. 103) Veterinary Hospital, Bodla, District Kabirdham, (Chhattisgarh)

13. Shri Bhonduram Tisar, (Presiding Officer Polling Booth No. 104), Head Master, Govt. Middle School Lenja Khar, Block Bodla, District Kabirdham, (Chhattisgarh)
14. Shri Rajendra Prasad Tiwari, (Presiding Officer Polling Booth No. 105) Head Master, Govt. Middle School Lalpur Kala, Block Bodla, District Kabirdham, (Chhattisgarh)
15. Shri R.S. Chandravanshi, (Presiding Officer Polling Booth No. 106) Block Bodla, District Kabirdham, (Chhattisgarh)
16. Shri V. K. Nandi, (Presiding Officer Polling Booth No. 107) Assistant Veterinary Medical Area Officer, Veterinary Hospital Bodla, District Kabirdham, (Chhattisgarh)
17. Shri Jitendra Kumar Jakhand, (Presiding Officer Polling Booth No. 108), Assistant Professor, Govt. Fisheries College, Kawardha, District Kabirdham, (Chhattisgarh)
18. Shri Nilesh Chandravanshi, (Presiding Officer Polling Booth No. 109) Rural Agriculture Development Officer, Agriculture Department, Tehsil Bodla, District Kabirdham, (Chhattisgarh)
19. Shri Hemkumar Sahu, (Presiding Officer Polling Booth No. 110), Head Master, Middle School Boys, Tehsil Bodla, District Kabirdham, (Chhattisgarh)
20. Shri Lal Singh Markam, (Presiding Officer Polling Booth No. 111) Forest Guard, Forest Range, Kawardha, District Kabirdham, (Chhattisgarh)
21. Shri Dilip Singh Thakur, (Presiding Officer Polling Booth No. 112), Head Master, Middle School Chimra, Block Bodla, District Kabirdham, (Chhattisgarh)
22. Shri Kumar Haldkar, (Presiding Officer Polling Booth No. 118), Lecturer (Panchayat), Higher Secondary School, Singhari, Block Bodla, District Kabirdham, (Chhattisgarh)
23. Shri Makhan Singh Markam, (Presiding Officer Polling Booth No. 119), Lecturer (Panchayat), Higher Secondary School, Singhari, Block Bodla, District Kabirdham, (Chhattisgarh)
24. Shri Bharat Lal Chandravanshi, (Presiding Officer Polling Booth No. 120), Teacher (Panchayat), Middle School, Achanakpur, Block Bodla, District Kabirdham, (Chhattisgarh) (respondent no.1 to 24 were non-applicant before the Election Tribunal)
25. The Specified Officer Cum Additional Collector Kabirdham, Distt Kabirdham, (Chhattisgarh)

---- Respondent

And

WPC No. 626 Of 2016

- Sheetal Kumar Sahu S/o Johra Sahu, Aged About 44 Years R/o Village Dongariya, Tahsil Pandariya, District Kabirdham, (Chhattisgarh)

----- Petitioner

Vs

1. Ayodhya S/o Dulari Chandrawanshi, R/o Village Raitapara, Tahsil Pandariya, District Kabirdham, (Chhattisgarh)
2. Manoj, S/o Heera Chandrawanshi, R/o Village Putkikala, Tahsil Pandariya, District Kabirdham, (Chhattisgarh)
3. Riddhram, S/o Gajanand Chandrawanshi, R/o Village Dongariya, Tahsil Pandariya, District Kabirdham, (Chhattisgarh)
4. Sudarshan, S/o Ramavtar Chandrawanshi, R/o Village Dongariya, Tahsil Pandariya, District Kabirdham, (Chhattisgarh)
5. Aajuram, S/o Sarharam Chandrawanshi, R/o Village Raitapara, Tahsil Pandariya, District Kabirdham, (Chhattisgarh)
6. Narayan Prasad Pandey (P.O. Center 164), Lecturer (P) Higher Secondary School, Madmada, Tahsil Bodla, District Kabirdham, (Chhattisgarh)
7. Shri Surendra Kumar Sharma, (P.O. Center 165), Pra. Pa. Ma. Shala, Sarangpurkala, Tahsil Bodla, District Kabirdham, (Chhattisgarh)
8. Shri Jili Mohammad, (P.O. Center 166), Middle School, Silhati Podi, Tahsil Bodla, District Kabirdham, (Chhattisgarh)
9. Shri Firtu Singh Markam (P.O. Center 167), Vya. Government Higher Secondary School Bantipara, Tahsil Bodla, District Kabirdham, (Chhattisgarh)
10. Shri Ashok Kumar Verma (P.O. Center 168), Primary School, Gadaikhurd Chowki, Tahsil Bodla, District Kabirdham, (Chhattisgarh)
11. Shri Sheikh Mohsinuiddin (P.O. Center 169), Pra. Pa. Ma. Prath. Bendrachi, Block Bodla, District Kabirdham, (Chhattisgarh)
12. Shri P.D. Deshmukh (P.O. Center 175), Government Naveen High School, Block Kawardha, District Kabirdham, (Chhattisgarh)
13. Shri B.S. Chandravanshi, (P.O. Center 176), Gramin Krishi Vistar Adhikari, Block Bodla, District Kabirdham, (Chhattisgarh)

14. Shri Mannulal Sharma (P.O. Center 177), Pramukh Prathmik Shala, Manikpur, Tahsil Bodla, District Kabirdham, (Chhattisgarh)
15. Shri N. K. Chaurasiya, (P.O. Center 259), Gramin Krishi Vistar Adhikari, Bodla, District Kabirdham, (Chhattisgarh)
16. Shri Gainsram Tavre (P.O. Center 260), Primary School/ Middle School, Niwspur, Tahsil Bodla, District Kabirdham, (Chhattisgarh)
17. Returning Officer And Tahsil Returning Officer, Pandariya, District Kabirdham, (Chhattisgarh)

---- Respondent

And

WPC No. 607 Of 2016

- Dhanraj Daheriya S/o Gangdev, Caste Satnami, Aged About 47 Years R/o Village Nawagaon Hatha, Police Station Pandariya, Tehsil Pandariya, District Kabirdham, (Chhattisgarh)

---- Petitioner

Vs

1. Dinesh Kosariya S/o Daulal, Caste Satnami, R/o Village Kharhatta, Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
2. Aamuram Kurre, S/o Dhanuk Kurre, Caste Satnami, R/o Village Sonpuri, Police Station And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
3. Purnima Prabhakar, W/o Janak, Caste Satnami, R/o Bandha, Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
4. Vijay Kumar Dhitalhre, S/o Sarju Dhitalhre, Caste Satnami, R/o Village Nawagaon Hatha, Police Station And Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
5. Santosh Dahire, S/o Dharam Dahire, Caste Satnami, R/o Village Rehuntakhurd, Tehsil Pandariya, District Kabirdham, (Chhattisgarh)
6. Rituraj Bisen, Returning Officer (Panchayat), Janpad Panchayat, Pandariya, District Kabirdham, (Chhattisgarh)
7. Ashwani Kumar Pandey (Presiding Officer Booth No. 136), Pra. Pa. Ma. School Lenjakhar, Tehsil Bodla, District Kabirdham, (Chhattisgarh)
8. Sanjay Kumar Shrivastava, (Presiding Officer Booth No. 137), Pra. Pa. School Prabhatola, Tehsil Bodla, District Kabirdham, (Chhattisgarh)

9. Bishamber Ayal Kumhare, (Presiding Officer Booth No. 142) Pra. Pa. Ma. Primary School, Titari, Block Bodla, District Kabirdham, (Chhattisgarh).
10. Omkar Singh Rajput (Presiding Officer Booth No. 143) Forest Guard, Forest Range Taregaon Jungle, Tehsil Bodla, District Kabirdham, (Chhattisgarh)
11. Sanjay Kumar Rathore (Presiding Officer Booth No. 144), Pra. Pa. Ma. Prath. Bendarchi, Block Bodla, District Kabirdham, (Chhattisgarh)
12. Laxman Lal Verma (Presiding Officer Booth No. 145) Lecturer (Panchayat) U.Ma.Vi. Podi, Block Bodla, District Kabirdham, (Chhattisgarh)
13. Vijay Kumar Dhurve (Presiding Officer Booth No. 192) Lecturer (Panchayat) U.Ma.Vi. Chilphi, Block Bodla, District Kabirdham, (Chhattisgarh)
14. Kamta Prasad Patil (Presiding Officer Booth No. 193) Lecturer (Panchayat) U. Ma. Vi., Rajnawagaon, Block Bodla, District Kabirdham, (Chhattisgarh)
15. Raghunandanram Chandrawanshi (Presiding Officer Booth No. 194) Lecturer (Panchayat), U.Ma.Vil Neur Gaon, Block Bodla, District Kabirdham, (Chhattisgarh)
16. K.K. Patel (Presiding Officer Booth No. 195), Sub Divisional Officer, Government Matsya Mahavidyalaya Kawardha, District Kabirdham, (Chhattisgarh)
17. Agamdas Manikpuri (Presiding Officer Booth No. 196) Lecturer (Panchayat) U.Ma. Vi. Kharhatta, Block Bodla, District Kabirdham, (Chhattisgarh)
18. Titheshwar Tiwari (Presiding Officer Booth No. 197) Pra. Pa. Ma. School Beharsari, Block Bodla, District Kabirdham, (Chhattisgarh)
19. Rajkumar Sahu (Presiding Officer Booth No. 198) Lecturer (Panchayat) U.M.Vi. Ramhepurkala, Block Bodla, District Kabirdham, (Chhattisgarh)
20. D.K. Rathiya (Presiding Officer Booth No. 199) Gramin Krishi Vistar Adhikari Krishi Vibhag Bodla (Berakh), District Kabirdham, (Chhattisgarh)
21. Sushil Kumar Chandrawanshi (Presiding Officer Booth No. 200) Pra. Pa. Sha. Gandaikhurd, Block Bodla, District Kabirdham, (Chhattisgarh)
22. Praduman Singh Patel (Presiding Officer Booth No. 201) Lecturer

(Panchayat), U.M.Vi. Jhalmala, Block Bodla, District Kabirdham,
(Chhattisgarh)

---- Respondent

And

WPC No. 742 Of 2016

- Champa Bai Sahu W/o Tiwari Prasad Sahu, Aged About 38 Years
R/o Village Kanpadah, Police Station And Tahsil Pandariya,
District Kabirdham (Chhattisgarh)

---- Petitioner

Vs

1. Geeta Sahu W/o Galam Sahu, R/o Village Kanpadah, Police
Station And Tahsil Pandariya, District Kabirdham (Chhattisgarh)
2. Gayatri Tiwari, W/o Vijay Tiwari, R/o Village Ghuturkundi, Police
Station And Tahsil Pandariya, District Kabirdham (Chhattisgarh)
3. Dashoda Diwakar, W/o Hemant Diwakar, R/o Village Amaldeela,
Police Station And Tahsil Pandariya, District Kabirdham
(Chhattisgarh)
4. Parwati Tiwari, W/o Satyaprakash Tiwari, R/o Village Amaldeeha,
Police Station And Tahsil Pandariya, District Kabirdham
(Chhattisgarh)
5. Seema Tiwari, W/o Ashok Tiwari, R/o Village Ghuturkundi, Tahsil
Police Station And Tahsil Pandariya, District Kabirdham
(Chhattisgarh)
6. Returning Officer (Panchayat), Pandariya, Block Pandariya, District
Kabirdham (Chhattisgarh)
7. The Additional Collector, Kabirdham, District Kabirdham
(Chhattisgarh)

---- Respondent

For Petitioners : Shri P.P. Sahu and Shri Rakesh Pandey, Advocates.

For Res. No. 1 in WPC 414 & 334 of 2016 : Shri VA Goverdhan, Adv.

For Res. No. 1 in WPC 607, 626 & 742 of 2016 : Shri Apoorva

Shrivastava on behalf of Shri Sushil Dubey, Advocate.

For Respondent/State : Shri S. Majid Ali, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

1. The present batch of 5 writ petitions was heard together for the reason that all the petitions concern election from different constituencies to the office of member of Janpad Panchayat, Pandariya. They were heard together also for the reason that grounds of challenge were either similar or overlapping in each of the petition.
2. In WPC No.334/2016, petitioner Smt. Amar Bai has called in question the election of Pratibha Panagar as member of Janpad Panchayat Pandariya from Constituency No.21; in WPC No.414/2016 petitioner Uma Chelse has called in question the election of Anita Devi from Constituency No.10; in WPC No.607/2016 petitioner Dhanraj Daheriya has called in question the election of Dinesh Kosariya from Constituency No.24; in WPC No.742/2016 petitioner Champa Bai Sahu has called in question the election of Geeta Sahu from Constituency No.8 and in WPC No.626/2016 petitioner Sheetal Kumar Sahu has challenged the election of Ayodhya from Constituency No.22.
3. All the election petitions have been dismissed by the Election Tribunal i.e. the Additional Collector, District Kabirdham without framing issues or recording evidence of the parties.
4. It is argued by the petitioners that the Election Tribunal should have followed the procedure laid down in the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (henceforth 'the Rules, 1995') which mandates to enquire the election petition, as

nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of the suit. However, the said procedure having not been followed, the impugned order deserves to be set aside and the matter deserves to be remitted back for fresh trial.

5. The respondents' counsel would argue that the election petition had no substance, therefore, it has rightly been rejected. In WPC No.414/2016, the respondents' counsel argued that the election petitioner herself refused to lead evidence, therefore, the impugned order does not call for any interference.
6. In WPC No.626/2016, it is argued that although issues were not framed but the election petitioner examined himself and thereafter failed to produce witnesses, therefore, dismissal of election petition is fully justified.
7. The question as to when non-framing of issues would vitiate trial of election petition has been dealt with by this Court in 'N' number of cases namely, **Parvatia v. Padmini and others¹**, **Ajuram v. Shatruhan Sahu and others²**, **Prem Kunwar v. State of Chhattisgarh and others³**, and **Balaram Rathore v. State of Chhattisgarh and others⁴**.
8. The procedure for trial of an election petition filed under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 is

¹ 2005 (2) CGLJ 335

² WPC No.2583 of 2011 (Decided on 28.08.2012)

³ AIR 2011 Chhattisgarh 62

⁴ AIR 2011 Chhattisgarh 134

governed under the Rules, 1995. Rule 11 of the Rules, 1995 reads thus :

“11. Procedure before the specified officer and his powers.- (1) Subject to the provisions of these rules, every election petition shall be enquired into by the specified officer **as nearly, as may be**, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

Provided that it shall only be necessary for the specified officer to make a memorandum of the substance of the evidence of any witness examined by him.

(2) The specified officer, shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:-

- (a) discovery and inspection.
- (b) enforcing the attendance of witnesses, and requiring the deposit of their expenses;
- (c) compelling the production of document;
- (d) examination of witnesses on oath;
- (e) reception of evidence taken on affidavit; and
- (f) issuing commission for examination of witnesses and summoning and examining suo moto any person whose evidence, appears to him to be material.”

9. Dealing with the above rule and interpreting the same, this Court in **Parvatia** (supra), **Ajuram** (supra), **Prem Kunwar** (supra) and **Balaram Rathore** (supra) has held that for trial of an election petition, framing of issues and examination of witnesses, would be necessary as provided under Order 14 Rule 1 of the Code of Civil Procedure, 1908.

10. In each of the election petition preferred by the petitioners before the Election Tribunal, allegations about miscalculation of votes secured by the candidates and adoption of corrupt practice by the

returning officer for giving undue benefit to the returned candidate have been made. The allegation of interpolation in counting sheet has also been made.

11. The election petitioners have prayed for recounting as well as for declaring himself/herself to be a returned candidate. Therefore, it is not a case where it can be said that both the parties were aware of each others case and proceeded to participate in the trial, therefore, non-framing of issues would not be fatal. To the contrary, it is a case where the Tribunal was required to frame issues. The law laid down in the matter of **Parvatia** (Supra) would, therefore, apply with full force in all the cases.

12. In addition to the above settled legal position, it is also to be seen that in WPC No.334/2016, the Election Tribunal straightway posted the case for recording of evidence of the non-applicants in the election petition, as mentioned in the order sheet dated 3.10.2015, even though the order sheet of previous date would record that the matter is adjourned for recording the election petitioner's evidence.

13. **In view of the above, WPC Nos.334/2016, 607/2016, 742/2016 and 626/2016 deserve to be and are hereby allowed.** The matter is remitted back to the Election Tribunal for holding trial in accordance with Rule 11 of the Rules, 1995. It is made clear that the Election Tribunal shall frame issues on the basis of evidence and pleadings made by the parties and grant proper and reasonable opportunity to the parties to lead evidence

and thereafter pass a reasoned final order on the basis of evidence on record.

WPC No.414/2016

14. In this petition, the order sheet of the Election Tribunal recorded on 3.10.2015 would mention that the election petitioner refused to lead evidence and thereafter the non-applicants before the Election Tribunal examined their witnesses and final order has been passed. It is not averred in the present petition or before the Election Tribunal immediately after 3.10.2015 that the order sheet is incorrectly recorded and the counsel engaged by the election petitioner in fact had not made any submission as is recorded in the order sheet dated 3.10.2015. In case where the election petitioner refused to lead evidence, the allegations made in the election petition are not substantiated by proving the same, therefore, even if issues were not framed, there is no prejudice to the election petitioner as she refused to examine the witnesses and as such trial is not vitiated, as held by this Court in the matter of **Santosh Kumar Nishad Vs. State of Chhattisgarh & Others** {WPC No.1565/2015, decided on 28.1.2016} which has been affirmed by the Division Bench in Writ Appeal No.68/2016.
15. Consequently, the present writ petition i.e. **WPC No.414/2016** is dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve