

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.4924 of 2010**

Smt. Papita Bhargav, W/o Shri Bhagwan Charan Bhargav, aged about 34 years, R/o Village Raliya, Gram Panchayat Raliya, Block & Tahsil Masturi, District Bilaspur (CG)

---- Petitioner

Versus

1. Smt. Chitrarekha Kurre W/o Umend Kurre, R/o Village Raliya, Gram Panchayat Raliya, Block & Tahsil-Masturi, District-Bilaspur (CG)
 2. Krishna Bai Lahare, W/o Ramadhar Lahare,
 3. Chameli Bai Kurre, W/o Kaval Prasad Kurre,
 4. Chhedini Bai Patre, W/o Rajkumar Patre,
 5. Poonam Sande, W/o Ramesh Sande,
 6. Meena Lahare, W/o Hirendra Lahare,
 7. Yashoda, W/o Baldev,
 8. Rupa Bai Banjare W/o Mahesh Banjare
 9. Revati Bai Tomar, W/o Dilip Tomar
 10. Saraswati Bai Patre W/o Dashrath Patre,
- Respondent No.2 to 10 R/o Village Raliya, Gram Panchayat Raliya, Block & Tahsil-Masturi, District-Bilaspur (CG)
11. Returning Officer (Panchayat) Masturi, Block & Tahsil-Masturi, District Bilaspur (CG)
 12. Authorized Officer (Panchayat) Booth Centre No.118, Gram Panchayat-Raliya, Block & Tahsil-Masturi, District-Bilaspur (CG)
 13. Authorized Officer (Panchayat) Booth Centre No.119, Gram Panchayat-Raliya, Block & Tahsil-Masturi, District-Bilaspur (CG)
 14. Authorized Officer (Panchayat) Booth Centre No.119(ka), Gram Panchayat-Raliya, Block & Tahsil-Masturi, District-Bilaspur (CG)
- Respondents No.12 to 14 through Returning Officer (Panchayat) Tahsil Masturi, Tahsil-Masturi, District-Bilaspur (CG)
15. Gram Panchayat Raliya, through the Secretary, Block & Tahsil Masturi, District Bilaspur (CG)
 16. Sub Divisional Officer (Revenue), Bilaspur, District-Bilaspur (CG)

---- Respondents

For Petitioner	:	Mr.Prateek Sharma, Advocate
For Respondent No.16	:	Mr.Sangrash Pandey, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

4/1/2018

- 1.** Learned counsel for the petitioner would submit that the Election Tribunal has held that corrupt practice was adopted by the petitioner/returned candidate simply on the basis of pamphlet showing the name of the petitioner alongwith the photographs of God Shiv and God Ganesh, and the election of the petitioner as returned candidate was declared as void, without examining the various factors before holding the charge of corrupt practice as proved, in a casual manner. Therefore, the impugned order is liable to be set aside.
- 2.** On the other hand, learned Government Advocate for respondent No.16 would support the impugned order.
- 3.** I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the records with utmost circumspection.
- 4.** The petitioner has been found guilty of corrupt practice as defined in Rule 22 (iii) of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (hereinafter called as 'the Rules of 1995'). He has been held guilty by the Sub Divisional Officer (Revenue), Bilaspur only on the ground that he has distributed pamphlet bearing photographs of God Shiv and God Ganesh (Annexure A/4 and A/5), which amount to corrupt practice for winning the election, but no particulars have been recorded by the Sub Divisional Officer in the impugned order as to whether the pamphlets were

distributed by the petitioner or her agent with the consent of the petitioner and when it was distributed, as such, details of the particulars have not been indicated in the impugned order. Except self-serving statement of respondent No.1- Smt.Chitrarekha Kurre on the said issue, no other evidence has been brought on record for proving the corrupt practice. Charge of corrupt practice has to be proved beyond reasonable doubt which has not been done as charge of corrupt practice as defined in Rule 22 (iii) of the Rules of 1995 has not been proved beyond reasonable doubt.

- 5.** Accordingly, the impugned order dated 6.8.2010 (Annexure P/1) passed by the Sub Divisional Officer (Revenue), Bilaspur is set aside. However, the petitioner is not entitled for holding the post of Sarpanch as period has already been expired.
- 6.** The writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-