

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.1698 of 2018

1. Shrimati Nanka Anant, wife of Raju, by Caste Satnami belonging to category Reservation Scheduled Caste, aged about 35 years, Officiating Sarpanch Gram Panchayat Riwapar, R/o Village Riwapara, Tahsil and Janpad Panchayat Sarangarh, (Police Station Kosir), Civil and Revenue District Raigarh (C.G.)
2. The Officiating Sarpanch, Gram Panchayat Riwapar, Tahsil Sarangarh, Through the Officiating Sarpanch Nanka Anant, by Caste Satnami, wife of Raju, aged about 35 years, in the Janpad Panchayat Sarangarh, Police Station Kosir, Civil and Revenue District Raigarh (C.G.)
3. Raju Anant, S/o Kariya Anant, aged about 43 years, by Caste Satnami (Scheduled Caste), R/o Village Riwapar, Tahsil Sarangarh, District Raigarh (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat, Mantralaya, New Rajdhani, Raipur, District Raipur (C.G.)
2. The Collector, Raigarh, District Raigarh (C.G.)
3. The Chief Executive Officer, Sarangarh, Janpad Panchayat and Tahsil Sarangarh, District Raigarh (C.G.)
4. The District Election Officer (Sthaniy Nirvachan), District Raigarh (C.G.)
5. Vihit Pradhikari Panchayat and Sub Divisional Officer Revenue, Sarangarh, District Raigarh (C.G.)

---- Respondents

For Petitioners: Mr. Janak Ram Verma, Advocate.

For Respondents No.1, 2, 4 and 5 / State: -

Mr. Dilman Rati Minj, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

22/06/2018

1. Thandaram was elected as Sarpanch of Gram Panchayat Riwapar, Tahsil Sarangarh, District Raigarh and casual vacancy arose on his death under Section 38(1) of the Chhattisgarh Panchayat Raj

Adhiniyam, 1993 (for short, 'the Act of 1993'). In order to hold bye-election, petitioner No.1 was appointed as officiating Sarpanch under Section 38(1)(b) of the Act of 1993. Now, the bye-election has been notified by the District Election Officer (Panchayat) which has been called in question by way of this petition stating that the election held is not in accordance with law and it is in contravention of Rule 29 of the Chhattisgarh Panchayat Nirvachan Niaym, 1995.

2. Petitioner No.1 is officiating Sarpanch. Upon casual vacancy having been arisen under Section 38(1)(a) of the Act of 1993, the bye-election has rightly been declared by the District Election Officer (Panchayat). Once election process is set in motion, it cannot be questioned by filing writ petition. Remedy of the petitioner is to file election petition in accordance with the Act of 1993 and in view of the bar created under Article 243-O of the Constitution of India, the writ petition questioning the election cannot be entertained. Therefore, the writ petition is dismissed. The petitioners are entitled to file election petition, if any, in accordance with the Act of 1993 and the rules made thereunder. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge