

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1749 of 2018**

Smit Kosariya, S/o late Somdatt Kosariya, Aged about 32 years, R/o Village Lakhagarh, Tahsil Pithora, District Mahasamund (C.G.)

---- Petitioner

Versus

1. Chhattisgarh State Election Commission, Ghadi Chowk, Raipur, District Raipur (C.G.)
2. Collector, Mahasamund, District Mahasamund (C.G.)
3. Returning Officer (Panchayat), & Tahsildar, Pithora, District Mahasamund (C.G.)

---- Respondents

For Petitioner	:	Shri Vikash Dubey, Advocate.
For Respondents	:	Shri R.S. Marhas, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

28/06/2018

1. Instant writ petition has been filed seeking direction to the respondents No. 1 & 2 to consider the complaint of the petitioner with respect to tempering in the Ballot Box of the ward No. 13 to 18 and to take necessary steps for fresh polling with respect to Ward No. 13 to 18 as per Rule 72 of the Chhattisgarh Panchyat Nirvachan Niyam, 1995.

2. Learned counsel appearing for the petitioner would submit that the respondents No. 1 & 2 are not taking any action on the complaint made by the petitioner, as such, they may be directed to accept his complaint and further directed

to take action on the said complaint.

2. On the other hand, counsel for the respondents opposes the writ petition.

3. I have heard learned counsel appearing for the parties.

4. It is not in dispute that the election has been notified; the election is on progress; and in the meanwhile complaint is said to have been made by the petitioner. Article 243-O (b) of the Constitution of India clearly provides that no election to the Panchayat can be assailed except by way of election petition.

5. Thus, it is for the petitioner is to await first the outcome of the election and thereafter to challenge the same by way of election petition to be preferred in accordance with Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 with rules made thereunder, as such, the instant writ petition as framed and filed is not maintainable.

6. Accordingly, the writ petition, being devoid of merit, is liable to be and is hereby dismissed. However, the petitioner is at liberty to raise all such permissible grounds in the election petition in accordance with law including all such grounds as raised in the writ petition.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-