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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3483 of 2017

- Bhushan Shardul S/o Shri Basant Rao Shardul Aged About 52 Years R/o Chameli Chowk Police Station City Kotwali , Dhamtari Tahsil And District Dhamtari Chhattisgarh.

---- Petitioner

Versus

1. C.G. State Cooperative Election Commission Through The Secretary, Collectorate Chowk, Raipur District Raipur Chhattisgarh.
2. Dhamtari Sahakari Vipnan Samiti Maryadit, Through The Secretary Vipnan Sanstha Office Kisan Rice Mill, Dhamtari District Dhamtari Chhattisgarh.
3. The Returning Officer , Dhamtari Sahakari Vipnan Samiti Maryadit Dhamtari , Vipnan Sanstha Office, Dhamtari, District Dhamtari (CG)

---- Respondent

WPC No. 3484 of 2017

1. Lalit Kumar Sahu S/o Late Ramnath Sahu Aged About 48 Years R/o Village Khamariya , Police Station Kurud Tahsil And District Dhamtari Chhattisgarh
2. Devilal Bhatt S/o Late Bhawani Prasad Bhatt Aged About 48 Years R/o Village Bijnapuri Post Chhati Police Sation Kurud District Dhamtari Chhattisgarh.
3. Latelu Ram Sahu S/o Late Bartiya Sahu Aged About 66 Years R/o Village Bodhra , Post Sambalpur Police Station Arjuni Tahsil And District Dhamtari Chhattisgarh.
4. Champalal Sahu S/o Late Chaituram Aged About 53 Years R/o Danitola Baigapara , Police Station Dhamtari Tahsil And District Dhamtari Chhattisgarh.
5. Upendra Chandrakar , S/o Late Chandrakumar Aged About 42 Years R/o Village And Post Chhati, Police Station Kurud Tahsil And District Dhamtari Chhattisgarh.

---- Petitioner

Versus

1. C.G. State Cooperative Election Commission Through The Secretary Collectorate Chowk Raipur District Raipur Chhattisgarh.
2. Dhamtari Sahakari Vipnan Samiti Maryadit , Through The Secretary Vipnan Sanstha Office Kisan Rice Mill Dhamtari District Dhamtari Chhattisgarh.
3. T. A. Khan, Returning Officer , Dhamtai Sahakari Vipnan Samiti Maryadit Dhamtari Vipnan Sanstha Office, Dhamtari, District Dhamtari (CG)

---- Respondent

WPC No. 3485 of 2017

- Shesh Narayan Sahu S/o Shri Punitram Sahu Aged About 47 Years R/o Village Darri Tahsil Dhamtari Police Station Arjuni Dhamtari District Dhamtari Chhattisgarh.

---- Petitioner

Versus

1. C.G. State Cooperative Election Commission Through The Secretary, Collectorate Chowk Raipur District Raipur Chhattisgarh
2. Dhamtari Sahakari Vipnan Samiti Maryadit, Through The Secretary Dhamtari Vipnan Sanstha Office , Dhamtari District Dhamtari Chhattisgarh
3. Shri T. A. Khan , Returning Officer Co - Operative Marketing Society Maryadit Dhamtari District Dhamtari Chhattisgarh.

---- Respondent

For Petitioners
For Respective
Respondents

Mr. Prateek Sharma, Advocate

Mr. Rajeev Shrivastava, Advocate and
Mr. R. Tripathi, Panel Lawyer

Order On Board By

Hon'ble Mr. Justice Prashant Kumar Mishra

24/9/2018

1. Heard.
2. The writ petitions have been preferred in respect of election of Dhamtari Sahakari Vipnan Samiti Maryadit. Polling for the said election was taking place on 11.12.2017, however, by the impugned order dated 11.12.2017 in WPC No.3484 & 3485 of 2017, the polling was stopped after the votes were cast by only 2 voters. The order would mention that there was some disturbance and effort to stop polling and the Returning Officer was mentally upset, therefore, he stopped polling.
3. Petitioner Lalit Kumar Sahu and others in WPC No.3484 of 2017 want that they should be allowed to cast their votes and the petitioners in other two petitions i.e. WPC Nos.3483/2017 and 3485/2017, want the election process to be continued by allowing them to cast their votes.
4. Once the election process has begun, the same cannot be stopped on flimsy or trivial reasons. The same has to be continued till the results are declared until grave law and order situation has occasioned and free & fair election is not possible, but the order dated 11.12.2017 would not disclose any such emergent situation, which would have affected free and fair election on the date of polling. Merely because there was some disturbance and the Returning Officer was mentally upset, the same would not furnish any such ground on which the election process should have been stopped.

5. The order dated 11.12.2017 (Annexure P/1 in WPC Nos.3484 of 2017 & 3485 of 2017) deserves to be and is hereby quashed. Let the Election Officer in consultation with the Chhattisgarh State Cooperative Election Commission declare fresh date of polling for holding election of Dhamtari Sahakari Vipnan Samiti Maryadit and conduct polling on the basis of voters list which was declared to be the voters list for the polling which was stopped on 11.12.2017.
6. The election process shall be completed within a period of 3 months. If the Chhattisgarh State Cooperative Election Commission faces any difficulty for holding election due to the ensuing Assembly Elections, the Election Commission may move an application for extension of time before this Court.
7. The interim order passed by this Court in WPC No. 3484 of 2017 stands vacated.
8. All the writ petitions are disposed of with the aforesaid observations.

Sd/-

(Prashant Kumar Mishra)

Judge

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