

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (PIL) No. 69 of 2014

1. Manoj Kumar Mandal S/o Mantu Charan Mandal Aged About 35 Years Sarpanch Gram Panchayat Devpur, R/o Pv -116, Main Road, Post Police Sation And Tahsil Pakhanjure, Distt. North Bastar Kanker C.G. Pin 494776
2. Bhajan Bishwas S/o Bimal Biswas Aged About 41 Years Sarpanch Gram Panchayat Dwarikapuri R/o Pv -57, Main Road, Post Kapsi, P.S. And Tahsil Pakhanjure District Norht Bastar Kanker C.G. Pin Code 494 771.

---- Petitioners

Versus

1. State of Chhattisgarh, Through The Secretary, Department of Urban Administration And Development Mantralaya, mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Chhattisgarh State Public Service Commission Raipur C.G. Through The State Election Commissioner
3. The Director, Urban Administration And Development, Sate of Chhattisgarh Raipur, Chhattisgarh
4. Collector District North Bastar Kanker, Chhattisgarh

---- Respondents

For Petitioners	:	Shri (Dr.) N.K. Shukla, Senior Advocate assisted by Shri Vikram Singh, Advocate
For Respondents/State	:	Shri A. S. Kachhawaha, Additional Advocate General
For Respondent No.2	:	Shri R. S. Marhas

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per, Ajay Kumar Tripathi, Chief Justice

03.10.2018

1. Heard learned Senior Counsel for the Petitioners and Counsel for the Respondents.

2. After having heard the parties, we are *prima-facie* satisfied that the provisions of Section 129-E of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 cannot be declared ultra vires keeping in mind that such a legislative competence is vested in the State and such legislation is in furtherance to the objective behind Article 243D of the Constitution of India.
3. Coming down to the manner or mechanism which has been adopted for either reserving or de-reserving a seat in the scheduled area is concerned, no doubt that will be a variable component depending upon the population of Schedule Castes and Scheduled Tribes which is one of the guiding principles in a particular area.
4. We have also noticed that the seats are being either reserved or de-reserved on the basis of an exercise being done by calling a meeting of the Panchayat and on the basis of the decision or the inputs provided by the Panchayat. In support thereof, a decision taken in relation to Uttar Bastar Kanker Panchayat has been brought on record as Annexure-R/2 filed by the State.
5. In the above circumstances, no fixed declaration can be made in relation to the Panchayats falling within the scheduled areas and the deliberations with regard to the reservation would be required to be made in terms of the objectives behind Article 243D of the Constitution of India as well as the corresponding State legislation i.e. Panchayat Act.

6. It goes without saying that the State authorities do have an obligation to carry out such exercises wherever required before holding such elections. The next election of Panchayats, I am informed, will be held somewhere in the year 2019.
7. The writ application is disposed off with the observation that the State authorities, saddled with the responsibility, will do the needful in accordance with the legislative and the constitutional mandate.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge