

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 982 of 2015**

Bhelas Sahu, S/o. Shri Nohar Lal Sahu, Aged About 45 Years, R/o. Village
Buddhu Bharda, Post Arjuni, Tahsil Dongergaon, District Rajnandgaon,
Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Rural And Panchayat
Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur,
Chhattisgarh.
2. Sub Divisional Officer Cum Election Officer (Gram Panchayat) Dongergaon,
District Rajnandgaon, Chhattisgarh
3. Manoj Kumar, S/o. Samaru Ram Mahar, Aged About 28 Years, R/o. Village
Panchayat Buddhu Bharda, Janpad Panchayat Dongergaon, District
Rajnandgaon, Chhattisgarh
4. Mr. G.R. Mahipal, Returning Officer (Panchayat) Dongergaon, District
Rajnandgaon Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Mohit Kumar, Advocate
For State/Respondents No.1 & 2	:	Mr. Soumya Rai, Panel Lawyer
For Respondent No.3	:	Mr. R.R.Soni, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17.09.2019

Heard.

1. It is contended on behalf of the petitioner that the respondent No.3 was
contested the election in the year 2015 and was elected as Sarpanch of
Village Buddhu Bharda, Tahsil Dongergaon, District Rajnandgaon.
2. Learned counsel for the petitioner submits that during the declaration of
election form, it was not disclosed that criminal case is pending against the
respondent No.3; therefore, there was a non-disclosure of a fact.
Subsequently, he was elected as Sarpanch. It is further stated that
pendency of the criminal case came to the notice of the petitioner when the

information was received under the RTI on 25.02.2015 that one criminal case was pending against him under Section 457 & 380 of I.P.C. Thereafter, the petitioner has preferred an election petition before the S.D.O. wherein the respondent No.3 proceeded ex parte and it also revealed that another case was registered against him under Section 456, 354, 506, 34 of I.P.C. on 08.04.2015 in Crime No.85/2015. It is stated that the respondent No.3, therefore, deliberately suppressed the fact about pendency of the criminal case. Consequently, his election was bad in law and the SDO should have allowed the election petition to set aside the election.

3. The State counsel supports the order passed by the S.D.O. and the respondent No.3 also contends that the order is well merited, which do not call for any interference.
4. Heard learned counsel for the parties.
5. The self-declaration form which was filed by the respondent No.3 was perused. The self-declaration form was under 4-B-1 under the Chhattisgarh Panchayat Nirvachan Niyam, 1995 as per Rule 31A. Clause 2 of such declaration form says that the candidate has to disclose the fact that whether he has been convicted previously and the particulars of the case are to be referred apart from the other declaration. Here in this case, only pendency of the criminal case would be an issue. The petitioner could not point out any statutory bar to show that when the criminal case is pending, respondent cannot contest the election. Neither he has supported by any authority or any statute except the oral submission.
6. Chhattisgarh Panchayat Nirvachan Niyam 1995, declaration contemplates in form 4-B-1 by the person who wants to contest the election. The detail of form requires the particular of the conviction has to be given. In this case, the election was admittedly held on 04.02.2015 and the RTI papers only says that a criminal case under Section 380, 457 of I.P.C. was registered

against the respondent No.3 way back in the year 2004. The petitioner is not able to substantiate the fact that the respondent No.3 was convicted in that case. What was the outcome of the criminal case, nothing is on record before the Election Commissioner, S.D.O. to hold that the respondent No.3 was convicted. In view of this, since the petitioner failed to show before the Election Commissioner that the respondent No.3 was convicted, as such, was disqualified, I do not find any reason to interfere with the order.

7. Accordingly, the petition has no merit and is hereby dismissed.

Sd/-
Goutam Bhaduri
Judge

ashok