

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WP(C). No. 2693 of 2019

1. Premlata Chandra W/o Purushottam Chandra Aged About 24 Years.
 2. Anita W/o Kanchram Aged About 22 Years.
 3. Kavita W/o Amarnath Aged About 25 Years.
 4. Uttara W/o Shatrughan Yadav Aged About 23 Years.
 5. Puribai W/o Resham Aged About 32 Years.
 6. Jagdev S/o Bhuburam Aged About 50 Years.
 7. Bhagirathi Chandra S/o Charandas Aged About 45 Years.
 8. Binda W/o Dauram Aged About 50 Years.
 9. Pardeshi S/o Jhaduram Aged About 44 Years.
- All are Panch of Gram Panchayat, Jashpur (Kachhar), Block Division- Sarangarh, Tahsil- Sarangarh, District- Raigarh, Chhattisgarh.

---- **Petitioner**

Versus

1. Kaleshwar Jaiswal Up- Sarpanch And Presently In- Charge, Sarpanch Of Gram Panchayat, Jashpur (Kachhar), Block- Sarangarh, District- Raigarh, Chhattisgarh.
2. Additional Commissioner Bilaspur, District- Bilaspur, Chhattisgarh.
3. Sub Divisional Officer Sarangarh, District- Raigarh, Chhattisgarh.
4. Chief Executive Officer, Zila Panchayat Raigarh, Distirct- Raigarh, Chhattisgarh.
5. Chief Executive Officer Janpad Panchayat, Sarangarh, District- Raigarh, Chhattisgarh.

--- **Respondents**

For Appellant	: Mr. Soumitra Kesharwani, Advocate.
For State	: Mr. Dinesh k. Tiwari, Dy, GA.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

05/08/2019

1. The case of the petitioners is that they are elected 'Panchas' of Gram Panchayat Jashpur (Kachhar), Block Division- Sarangarh, Tah. Sarangarh Disst. Raigarh, (C.G). Smt. Surit Bai Sarthi, who was elected 'Sarpanch' of Gram Panchayat Jashpur (Kachhar), was removed from the said post on 21.05.2018 by way of 'No Confidence Motion' proceeding. As the post of 'Sarpanch' became vacant, therefore, for managing the affairs of gram panchayat- Jashpur (Kachhar), respondent no.1 Kaleshwar Jaiwal (Up-Sarpanch) has been nominated by the

'Panchas' to officiate as 'Sarpanch' for a period of six months and on 30.05.2018 he took the charge of 'Sarpanch'. But even after expiry of the period of six months, he did not hand over the charge of 'Sarpanch'.

2. On 15.11.2018 petitioners moved an application before Chief Executive Officer, Zila Panchayat- Raigarh (C.G) ie respondent no.4 herein mentioning therein that election of 'Sarpanch' should be held at the earliest. On the basis of representation made by them, the Chief Executive Officer, Zila Panchayat vide his letter dated 20.12.2018 (Annexure- P/4) directed the Sub-Divisional Officer Sarangarh, Distt. Raigarh ie respondent no.3 to initiate the proceeding for holding election of 'Sarpanch' of gram panchayat -Jashpur (Kachhar). Said direction was challenged before the Additional Commissioner, Bilaspur Division, Bilaspur, (C.G) by respondent no.1 and the Additional Commissioner vide impugned order dated 28.12.2018 (Annexure- P/1) stayed the direction issued by the Chief Executive Officer.
3. Learned counsel for the petitioners submits that respondent no.1 with intent to drag the election process filed the revision before the Additional Commissioner and even after passing of interim order in his favour and direction to pay process fee, he has not paid the process fee till date for appearance of the petitioners and respondents therein and from 28.12.2018 the matter is pending before the Additional Commissioner. The provisions of Section 38 of Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the Act of 1993') provides for filling-up the causal vacancy.
4. Undisputedly, post of 'Sarpanch' became vacant due to 'No-Confidence Motion' carried out against the elected 'Sarpanch' Smt. Surit Bai Sarthi

on 21.05.2018 and, therefore, it was incumbent upon the authority to hold election in accordance with the provisions of the Act, 1993 and the rules made thereunder.

5. Other ground raised by learned counsel for the petitioners is that post of 'Sarpanch' is reserved for 'Scheduled Caste (Woman)' but at that time no other 'Panchas' except 'Up-Sarpanch' was ready to discharge the duties of 'Sarpanch' and, therefore, respondent no.1 has been nominated to officiate as 'Sarpanch'. He further submits that proviso to Section 38 of the Act of 1993 specifically provides that if post of 'Sarpanch' is reserved for member of 'Scheduled Castes or Scheduled Tribes' (woman), and if no other woman of said reserved category is available then any other woman belonging to other reserved category may be elected to officiate as 'Sarpanch' during the casual vacancy. But in this case respondent no.1 who is a male person is elected to officiate as 'Sarpanch', therefore, he prays that in the facts and circumstance of the case, the Revisional Authority may be directed to dispose off the revision pending before it since 28.12.2018 at the earliest.
6. I have heard learned counsel for the parties and perused the records.
7. Looking to the facts and circumstance of this case and also considering the provisions of Section 38 of the Act of 1993, the prayer made by counsel for the petitioners appears to be reasonable. The post of 'Sarpanch' became vacant on 21.05.2018, election was required to be conducted, but respondent no.1, who is up-sarpanch and officiating as 'Sarpanch', had challenged the direction of holding election for filling casual vacancy and obtained an order of stay on 28.12.2018 ie about 7 months back, It will be suffice to direct respondent no.2 -Additional

Commissioner to decide the revision itself within a period of one month from the date of appearance of petitioners and receipt of copy of this order. It is made clear that petitioners will co-operate in the proceedings and will not take unnecessary adjournment.

8. With the aforesaid observation and direction, writ petition stands disposed off.

Sd /-

(Parth Prateem Sahu)
Judge