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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 3540 of 2019**

Manoj Kansari S/o Late Ram Chandra Kansari Aged About 38 Years R/o Joda Pepal, Kedarpur, Ambikapur, District Surguja, Chhattisgarh, 497001. Ward Member (Parshad)- Indira Gandhi Ward No.17

---- Petitioner**Versus**

1. State of Chhattisgarh, through its Secretary, Department of Urban Administration and Development, Mantralaya, New Raipur, Atal Nagar, District Raipur, Chhattisgarh.
2. The Collector Surguja, District Surguja, Chhattisgarh.
3. The Chief Municipal Officer Nagar Palik Nigam, Ambikapur, District Ambikapur, Chhattisgarh
4. The State Election Commission Constituted under Article 324 of The Constitution of India, Election Commission Office, Raipur, District Raipur, Chhattisgarh

---- Respondents**AND****Writ Petition (C) No. 3620 of 2019**

Shatrughan Singh S/o Shri Kailash Singh Aged About 32 Years R/o West Ring Road Mission Chowk, Kedarpur, Ambikapur District Surguja Chhattisgarh 497001

---- Petitioner**Versus**

1. State of Chhattisgarh, through its Secretary, Department of Urban Administration and Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. The Collector Surguja District Surguja Ambikapur, Chhattisgarh
3. The Chief Municipal Officer, Nagar Palik Nigam, Ambikapur District Surguja Chhattisgarh
4. The State Election Commission, Election Commission Office, Raipur District Raipur Chhattisgarh

---- Respondents

For Petitioners	:	Shri Y.S.Thakur and Shri Rakesh Jha, Advocates.
For Respondent No. 1 and 2	:	Shri Vikram Sharma, Deputy Government Advocate
For Respondent No. 3	:	Ms. Parvati Suryavanshi, Advocate on behalf of Shri Bhupendra Singh, Advocate.
For Respondent No. 4	:	Shri R.S.Marhas, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per P.R. Ramachandra Menon, Chief Justice

02/12/2019

1. Both these writ petitions have been filed with a common cause of action moulding the pleadings and prayers in a similar manner. The grievance essentially pertains to delimitation of the constituency, particularly in connection with the proposed steps for conducting the election to the local authorities.
2. Writ Petition (C) No. 3540 of 2019 is taken as the lead case and the prayers are in the following terms:

"10.1 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to call the entire records pertaining to this case.

10.2 That the Hon'ble Court may kindly be pleased to issue writ in the nature of certiorari, prohibition, mandamus and other appropriate writ which may deem fit for issuance of direction to the respondent authorities that decide the representation of the petitioner in regarding to the proposed delimitation policy while following the due process of law in prescribed manner.

10.3 That Hon'ble Court may kindly be pleased to direct high level enquiry into the matter of a huge irregularities have been committed by the concerned authorities.

10.4 Hon'ble Court may further kindly be pleased to direct the respondent authorities to determine the extent of wards afresh and adopt the procedure established by the law, which is prescribed in Article 21 of the Constitution of India.

10.5 That Hon'ble Court may kindly be pleased to quash the notification dated 12.07.2019 (Annexure P-1) being illegal.

10.6 Hon'ble Court may further kindly be pleased to direct the respondent authorities to decide representation of the petitioner objectively with reasoned order and to pass any other relief(s) which it deems fit alongwith cost of the petition in the interest of justice."

3. Heard Shri Y.S.Thakur and Shri Rakesh Jha, the learned Advocates for the Petitioners, Shri Vikram Sharma, the learned Deputy Government Advocate for the State, Shri R.S.Marhas, the learned Advocate representing the State Election Commission and Ms. Parwati Suryawanshi, the learned Advocate representing the Respondent-Municipal Corporation.
4. When the matters were taken up for consideration on the last posting, it was submitted from the part of the State that election notification had already been issued and hence, there was bar in considering the merit of the matter. It was for confirming the position, that these matters were adjourned. Today, it is submitted by the learned counsel representing the State as well as the learned counsel representing State Election Commission that notification bearing No. एफ-54-2/तीन (दो)/न.पा/समय कार्यक्रम/2019/2470 dated 25.11.2019 has already been issued by the State Election Commission, notifying the election and also mentioning the various dates in connection with the process to be completed. A copy of the said notification is placed for perusal of this Court.
5. The learned counsel for the State and the learned counsel for the State Election Commission submit that that there is a bar by virtue of Article 243ZG of the Constitution of India; whereby the Courts are prevented from going further, once an election notification is issued and the challenge, if at all any, can only be by way of Election Petition and that too, after conduct of the election. Reliance is also sought to be placed on the law laid down by the Apex Court in **Anugrah Narain Singh v. State of UP**, (1996) 6 SCC

203 besides the verdict passed by a Division Bench of the Rajasthan High Court in ***Mushe Khan v. State of Rajasthan***, AIR 2015 Rajasthan 35.

6. In view of the turn of events, we are of the view that the writ petitions are not liable to be entertained as on date. They are dismissed accordingly, making it clear that we have not considered the merits of the case in any manner, which is left open.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE