

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (C) No.4554 of 2019**

Santosh Nag S/o Mr. Jaya Nag, Aged About 33 Years Caste - Ganda, R/o D. N. K. Colony, Kondagaon, Tahsil And District - Kondagaon Chhattisgarh.

**---Petitioner(s)**

**Versus**

1. State of Chhattisgarh Through The Secretary Of Urban Development Administration And Development Department, New Raipur Chhattisgarh.
2. Chhattisgarh State Election Commission, near DKS Bhawan, Old Mantralaya Road, Moti Bagh, Raipur (CG).
3. Collector Cum Returning Officer, Kondagaon, District - Kondagaon Chhattisgarh.
4. Chief Municipal Officer ( C M O ) Municipality, Kondagaon Chhattisgarh.
5. Nipendra Mishra S/o G. C. Mishra, Aged About 39 Years R/o Vikas Nagar Kondagaon Chhattisgarh.
6. Gunmati Nayak D/o Haroprasad Nag Aged About 35 Years R/o D. N. K. Colony, Kondagaon Chhattisgarh.
7. M.D. Baghel S/o Bisru Ram Baghel Aged About 61 Years R/o Tahsilpara, Kondagaon Chhattisgarh.
8. Neelambar Jali, S/o Late Jairam Aged About 36 Years R/o D. N. K. Colony, Kondagaon Chhattisgarh.

**---Respondents**

|                  |   |                                           |
|------------------|---|-------------------------------------------|
| For Petitioner   | : | Shri Raza Ali, Advocate.                  |
| For State        | : | Shri Jitendra Pali, Dy. Advocate General. |
| For Respondent 2 | : | Shri Abhyuday Singh, Advocate.            |

**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**09.12.2019**

1. The oral request made by the petitioner for impleading Chhattisgarh State Election Commission as party respondent in the petition stands allowed.  
Let necessary amendment be carried out in the cause title during the course of day itself.
2. The challenge in the present writ petition is the rejection of the nomination papers of the petitioner Annexure P/1, dated 07.12.2019 by the Returning Officer of the Nagar Panchayat, Kondagaon. The rejection has been done on the ground that there were dues outstanding against the petitioner and that earlier no dues certificate was not issued to the petitioner.

- 3.** From the submission of the counsel for the petitioner and on perusal of records, it appears that the petitioner was interested for participation in the municipal corporation election which has been notified by the State Govt. The petitioner intended to contest the election as Councillor from the municipality, Kondagaon. The last date for submission of nomination paper was 06.12.2019. The petitioner tendered his nomination form along with all requisite formalities required therein. The application of the petitioner was subject to scrutiny on the next day i.e. on 07.12.2019. The another candidate who also had submitted his nomination to contest election raised an objection in respect of no dues certificate that was furnished by the petitioner stating that there are dues of more than Rs.27,000/- against the petitioner still outstanding as unpaid rent for the period from November, 2017 onwards.
- 4.** On verification of facts, the respondents found that the rent amount from November, 2017 amounting to Rs.27,731/- was not paid by the petitioner. Based upon the said objection, the nomination of the petitioner stood rejected invoking the provisions of Section 35(j) of the Chhattisgarh Nagar Palika Adhiniyam, 1961.
- 5.** The contention of the petitioner is that, immediately when the objection was raised, the petitioner went and deposited the dues/outstanding amount and thereby the petitioner has cured his defects and the petitioner subsequently got another no dues certificate issued in his name dated 07.12.2019 and therefore the authorities should have accepted the same without rejecting his nomination papers.
- 6.** This court, without entering into the merits of the case, is of the prima facie view that when the petitioner's nomination was subjected to scrutiny, as objection was raised in respect of the outstanding rent against the

petitioner, the authorities found that the petitioner has not paid his rent for the shop that he was having, since November, 2017 onwards. The second aspect which has to be seen is that, the petitioner immediately has gone and deposited the outstanding amount, thereby establishing the fact that there were infact default of rent on the part of the petitioner since November, 2017 onwards. Whether the dues were infact outstanding against the petitioner or not is a matter of evidence which cannot be checked or verified by this court at this juncture.

7. Therefore, this court is of the view that rejection of the nomination of the petitioner invoking the provisions of Section 35(j) of the Municipalities Act cannot be said to be bad in law in any manner. The provision of Section 35(j) of the Act clearly envisages that the person would disqualify if he has not paid all dues due to him to the Municipalities at the end of the financial year immediately preceding that in which the election or nomination is to be held.
8. The fact that there were outstanding due against the petitioner since November, 2017 onwards and which has subsequently paid by the petitioner on 07.12.2019 is sufficient to show that there were dues outstanding against him which disqualifies the petitioner from participating in the election process.
9. Thus, the writ petition being devoid of merit, deserves to be and is rejected.

Sd/-  
(P. Sam Koshy)  
**Judge**