

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No.4555 of 2019

Jagdish Bhura S/o Late Chagan Lal Bhura, Aged About 47 Years R/o Pratap Dev Ward, Jagdalpur District Bastar Chhattisgarh.

---Petitioner(s)

Versus

1. Chhattisgarh State Election Commission Near D.K.S. Bhawan, Old Mantralaya Road, Moti Bagh, Raipur, Chhattisgarh 492001.
2. Returning Officer (Nagarpalika) Jagdalpur, District Bastar Chhattisgarh.

---Respondents

For Petitioner	:	Shri Kishore Bhaduri and Shri Pankaj Singh, Advocates.
For State	:	Shri Jitendra Pali, Dy. Advocate General.
For Respondent 1	:	Shri Abhyuday Singh, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09.12.2019

1. The present writ petition has been filed challenging the order dated 07.12.2019 passed by the Returning Officer, Nagar Palika, Jagdalpur, Bastar, whereby the nomination forms submitted by the petitioner for municipal election notified by the State Govt. has been rejected. The rejection has been made on the ground that the petitioner did not submit his nomination papers with no dues papers of the petitioner himself.
2. The contention of the petitioner is that, the petitioner along with nomination papers had submitted no dues certificate of his mother who is the actual owner of the property on which the petitioner resides. Further contention of the petitioner is that, since the petitioner does not have any property in his name, there was no question of payment of any dues or tax to the corporation and in the process there could not have no dues certificate issued in favour of the petitioner, unless he has some property or taxable business that he is operating. It was the further contention of the petitioner that the rejection of nomination in view of provisions of Section 17(1)(j) of

the Municipal Corporation Act, 1973 also is not sustainable for the reason that Section 17(1)(j) of the said Act cannot be invoked as there was no individual proceeding against the petitioner ever initiated under the provisions of The Chhattisgarh Sthaniya Nidhi Sampriksha Adhiniyam, 1973. On this ground also the rejection of the nomination of the petitioner is bad in law.

3. Perusal of record would show that admittedly, the petitioner had participated for the municipal election by submitting his nomination form on 06.12.2019. The petitioner, along with his nomination form, had enclosed no dues certificate of his mother. The scrutiny of the nomination papers were done on 07.12.2019. During the course of scrutiny, one of the other candidate raised an objection in respect of the nomination papers of the petitioner being unacceptable for want of No Dues Certificate of the candidate himself. This aspect was scrutinized and it was found that No Dues Certificate submitted by the petitioner was not that of his, but was of his mother.
4. Thus, from the aforesaid facts and circumstances of the case it is apparently clear that the No Dues Certificate submitted by the petitioner was not of the individual candidate himself. Once when there is a checklist provided by the respondents prescribing the documents which has to be enclosed along with nomination papers, it is expected that the said documents has to be pertaining to the candidate himself.
5. In the instant case, the default is on the part of the petitioner of not filing the "No Dues Certificate" of himself. The No Dues Certificate which is supposed to be enclosed along with the nomination papers is always that of the candidate and not of any other person. Mere submission of No Dues Certificate of his mother would not suffice.

6. The objection as has been raised by the petitioner so far as the provisions of Section 24(A) of the Chhattisgarh Nagar Palika Nirvachan Niyam, 1994 is concerned, that again would not meet the requirement as no dues certificate was neither of the candidate, nor his spouse, nor his dependent children. No Dues Certificate provided by the petitioner was that of his mother.
7. Moreover, another aspect which cannot be lost sight of is that, pursuant to the objection raised by the other candidate, the petitioner thereafter has been able to obtain "No Dues Certificate" by the concerned authority in his name itself. The fact that the petitioner could get no dues certificate in his name subsequently is a sufficient indication that he could have obtained No Dues Certificate issued in his name prior to the submission of the form and should have enclosed it along with the nomination papers. There is no provision in the law which provides for curing of any defects or defaults which has been detected or pointed out during the course of scrutiny of the nomination papers.
8. Given the said facts, this court does not find any strong case made out by the petitioner calling for an interference with the impugned order dated 07.12.2019. The writ petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder