

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 18 of 2020**

Devcharan Sahu S/o Shri Kodu Ram Sahu, Aged About 64 Years, R/o Village Pachri, Tehsil Tilda, Sub Teshil Kharora, District Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Urban Administration, Mantralay, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. State Election Commission, State Of Chhattisgarh Through Its Secretary, H. Q. Shastri Chowk, Raipur, Chhattisgarh
3. District Election Officer, Raipur/ Collector Raipur, Chhattisgarh
4. Returning Officer (Panchayat) Tilda-Nevra/ Sub Divisional Officer (Revenue) Tilda, District Raipur, Chhattisgarh
5. Assistant Returning Officer (Panchayat) Tilda-Nevra, District Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. R. K. Kesharwani, Advocate
For State	:	Mr. V. R. Tiwari, Addl. A.G. with Mr. Jitendra Pali, Dy. A.G.
For Respondent no. 2	:	Mr. R. S. Marhas, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****03.01.2020**

1. The grievance of the petitioner in the present writ petition is the action on the part of the respondents in deleting the name of the petitioner

from the voters list while publishing final list on 14.12.2019.

2. According to the petitioner, he is a permanent resident of village Pachri, Tehsil Tilda, district Raipur. He has casted his vote from the said village in previous parliament as well as state assembly election. According to the petitioner, when the provisional list was published on 23.11.2019, his name was reflected at serial no.839. However, when the final list was published on 14.12.2019, surprisingly the name of the petitioner has been reflected to have been deleted. The petitioner thereafter immediately preferred an objection before the Returning Officer, Janpad Tilda i.e. the authority who had deleted the name of the petitioner and also to the District Election Officer on 31.12.2019. However, no further development has transpired on the objection that the petitioner has raised.
3. Counsel for the State, on instruction, submits that as per the authorities concerned, the name of the petitioner was deleted on account of the fact that the wife of the petitioner had in the past contested the election of Nagar Panchayat, Kharora. This was brought to the notice of the authority by way of an objection raised by the Sarpanch of the said village. According to the State counsel, the authorities, on due verification, found the objection to be correct and thereby taken a decision for deleting the name of the petitioner.
4. So far as the deletion of name in the voters list is concerned, there is a specific provision under the Chhattisgarh Panchayat Nirvachan Niyam, 1995. Rule 15A deals with the said situations. For ready reference Rule 15A is reproduced hereinunder:

“15A. Deletion of entries in the voters list in certain cases.-

(1) If the Registration Officer on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that the name of any person in the voter's list of a Panchayat after its finalisation under rule 12 should be deleted on the ground that the person concerned is registered in the voter's list of any other Panchayat or of any Municipality, the Registration Officer shall, subject to such general or special direction, if any, as may be given by the Commission in this behalf, delete the entry:

Provided that before taking any action in this behalf, the Registration Officer shall give the person concerned reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

(2) No deletion of any entry shall be made under sub-rule (1) after the last date fixed for making nomination in the notice issued under rule 28 for the election in that ward or in the constituency of any Panchayat within which that ward is comprised and before the completion of that election.

(3) The Registration Officer shall record in writing the reasons for his decision to delete an entry under sub-rule (1) and shall make available, on demand, a copy of such decision to the person concerned free of charge, forthwith.

(4) Any person aggrieved by the decision of the Registration Officer under sub-rule (1) may prefer an appeal to the District Election Officer within fifteen days of such decision.

(5) The District Election Officer, after giving the appellant an opportunity of hearing and making such enquiry as he deems fit, shall pass suitable order on the appeal. The decision of the District Election Officer shall be final."

5. A plain reading of Clause 4 as well as 5 of the aforesaid Rule would clearly reflect that there is a specific provision of appeal provided under the rules itself and the appeal lies to the State Election Officer. The petitioner submits that he has immediately preferred an appeal on 31.12.2019 which is pending consideration before the authorities till date or at least which has not been rejected.
6. Given the aforesaid facts and circumstances of the case, this Court is not inclined to entertain the writ petition at this juncture. Ends of justice would meet if the District Election Officer i.e. the Collector, District Raipur is directed to decide the objection/appeal that the petitioner has

preferred on 31.12.2019 so far as deletion of his name is concerned from the voters list from village Pachri, Tehsil Tilda, district Raipur.

7. Another reason for not entertaining the writ petition is that admittedly the election notification had already been published on 23.12.2019. It has been by now well settled that once the election notice has already been published, the High Court in exercise of its writ jurisdiction would not entertain the writ petition calling for any amendment/correction in the voters list as has been settled by the judgments of Madhya Pradesh High Court in the cases of Khumano Bai Vs. State of Madhya Pradesh and Ors. (1995 MPLJ 67) & Anjana Mulkalwar Vs. State of MP & Others (1998) 2 JLJ 328) and also the recent decision of the Division Bench of this High Court in the case of Manoj Kansari Vs. State of Chhattisgarh in WPC No. 3540/2019 and other analogous writ petitions decided on 02.12.2019.
8. Reserving the right of the petitioner for approaching the concerned authority, the writ petition stands disposed of.
9. Certified copy today.

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