

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 17 of 2020

Smt. Priyadarshini Divya W/o Shri Ramanand Divya Aged About 35 Years
R/o Sarsiva, Ward No.18, Tahsil Bilaigarh, Police Station Sarsiva, District
Balodabazar-Bhatapara, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department of Panchayat and Rural Development, Mantralaya, Post Office Rakhi, Atal Nagar, District Raipur, Chhattisgarh.
2. Director, Directorate of Panchayat, Indrawati Bhawan, Mantralaya, Post Office Rakhi, Atal Nagar, District Raipur, Chhattisgarh.
3. The Collector, Office of Collector, District Balodabazar-Bhatapara, Chhattisgarh.
4. Additional Collector, Office of Additional Collector, District Balodabazar-Bhatapara, Chhattisgarh.
5. Sammelal Yadav Authorized Employee, Secretary, Gram Panchayat Sarsiva, Tahsil Bilaigarh, District Balodabazar-Bhatapara, Chhattisgarh.
6. Amit Shrivastava Assistant Registration (Panchayat), Janpad Panchayat Bilaigarh, District Balodabazar-Bhatapara, Chhattisgarh.
7. K.L. Sori Registration (Panchayat), Janpad Panchayat Bilaigarh, District Balodabazar-Bhatapara, Chhattisgarh.
8. Lata Jatwar D/o Shyam Lal Jatwar R/o Village Kodwa, Tahsil Bilaigarh, District Balodabazar-Bhatapara, Chhattisgarh.
9. Mamta Thakur, Naib Tahsildar, Bhatgaon, District Balodabazar-Bhatapara, Chhattisgarh.
10. District Election Officer (Panchayat) Office of District Election Officer (Panchayat) District Balodabazar-Bhatapara, Chhattisgarh.

---Respondents

For Petitioner	:	Shri VC Ottalwar and Shri Atul Kumar Kesharwani, Advocates.
For State	:	Shri Jitendra Pali, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03.01.2020

1. Challenge in the present Writ Petition is to the order 28.12.2019 passed by the respondent No.4 rejecting the appeal preferred by the petitioner against the order dated 12.12.2019 passed by the Registration/Assistant Registration Officer.
2. The facts of the case is that, the petitioner claims herself to be a resident of Ward No.18, Tehsil Bilaigarh, District Baloda Bazar. The voter list for the

forthcoming Panchayat elections were published on 23.11.2019 as per the schedule prescribed by the State Election Commission. The name of the petitioner was not reflected in the said voter list for Ward No.19.

3. From the pleadings available in the writ petition, it is clear that the name of the petitioner infact was published in the voter list for Ward No.19 of Gram Panchayat, Ghirwa under Block Jaijaipur of District Janjgir Champa. The petitioner admittedly was earlier residing at the said place. It is said that the petitioner has shifted to the present place about 2-3 years back, however, she did not take any steps for getting her name included in the voter list at the present place. She moved an application for deletion of her name from the voter list of Ward No.19 of Gram Panchayat Ghirwa, Block Jaijaipur, District Janjgir Champa only on 29.11.2019. It is said that the said application of the petitioner stood allowed on the same day and her name deleted also on the same day and thereafter she approached the authorities on 30.11.2019 for getting her name incorporated which the authorities initially rejected on 12.12.2019 and which has been affirmed by the respondent No.4 vide impugned order dated 28.12.2019 or an appeal.
4. Indisputably, the election process has already been notified for the forthcoming Panchayat elections vide notification dated 23.12.2019. It is relevant at this juncture to mention the legal position so far as interference with voter list is concerned.
5. The Madhya Pradesh High Court in Khumano Bai Vs. State of Madhya Pradesh & Others (WP No.778 of 1994, decided on 25.07.1994) 1995MPLJ67 held as under :

“As a challenge has been made to the voters' list prepared under the Act and the Rules this aspect of the matter is also being dealt with in this petition. The qualifications for a person who wants to get himself registered as a voter have been

indicated in Section 5 of the Adhiniyam. The detailed procedure for preparing voters' list is indicated in Chapter III of the rules of 1994. The preliminary voter list is prepared under Rule 8, claims and objections are invited under Rule 9 and these objections are decided under Rule 10. Any person aggrieved by an order passed by the Registration Authority can prefer an appeal under Rule 10(5). Voters List attains finality and no amendment is permissible once a notice of election has been issued under Rule 27 of the Rules. This is so provided in Rule 10(5) proviso. The law attaches great importance to the voters' list once it is finalized and this is the precise reason for laying in expressed terms that once a notice of election has been issued under Rule 27 then no amendment is permissible in the list."

6. Again same view has been taken by the MP High Court in Anjana Mulkalwar Vs. State of MP & Ors. (WP No. 1624 of 1996, decided on 10.08.1998) 1998(2) JLJ328.
7. Further, Division Bench of this High Court in Manoj Kansari Vs. State of Chhattisgarh & Others (WPC No.3540 of 2019 and other connected matters) recently has held as under:

"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.”

8. In addition to the aforesaid legal position as it stands, admittedly the petitioner even on the date when the voter list for Ward No.18 of Tehsil Bilaigarh was published, had not taken any steps for getting her name included in the voter list, nor had she made any efforts for the same in the past though she has been residing there for more than couple of years. Moreover, till 29.11.2019 the name the petitioner already stood reflected in the voter list of a different Gram Panchayat in a different district altogether, under any circumstances she could not have been included in the voter list of Ward No.18 of Tehsil Bilaigarh till 29.11.2019. This fact itself is sufficient to draw an inference that the petitioner does not have any strong case made out in her favour for interference with the voter list that was published on 23.11.2019.
9. The writ petition accordingly fails and is dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder