

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 15 of 2020

Smt. Sumanlata Banjare W/o Rajesh Banjare Aged About 37 Years R/o Village Chhachhanpairi, Tahsil Abhanpur, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Collector Cum Electoral Officer District Raipur, Chhattisgarh.
3. Sub-Divisional Officer Abhanpur, District Raipur, Chhattisgarh
4. Chief Executive Officer Janpad Panchayat Abhanpur, District Raipur, Chhattisgarh.

---- Respondent

For Petitioner	: Shri Ishan Verma, Adv.
For State	: Shri V R Tiwari, Addl. A.G. with Shri Jitendra Pali, Dy. A.G.
For Respondent/s	: R.S. Marhas, Adv.

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 to the non inclusion of name of the petitioner in the voter list for the Panchayat Election for village Chhachhanpairi Tahsil Abhanpur District Raipur.
2. According to the counsel for the Petitioner, the voter list was first published on 23.11.2019 and the petitioner for the first time, has raised an objection in respect of his name being not included in the voter list on 10.12.2019.
3. It is relevant at this juncture to refer to Rule 11 of the Chhattisgarh Panchayat Nirvachan Nigam 1995 for ready reference is quoted as under:-

“11. Claims and Objections- (1) Any person, whose name is not entered in the voters' list or is entered at an incorrect place or with incorrect particulars or any person whose name is entered in the list and who objects to the inclusion of his own name or the name of any person in that list, may prefer a claim or objection by delivering to the Registration Officer an application in writing duly signed not later than 3.O'clock in the afternoon of the last specified day in the notice under rule 10 and no claim or objection received thereafter shall be entertained.

4. The State Election Commission has prescribed the schedule vide order dated 05.10.2019. As per schedule prescribed by the State Election Commission, the voter list was to be published on the 23.11.2019 which according to the respondents was in fact published. As per schedule, the objection in respect of voter list ought to had been filed up to 3:00 pm on 30.11.2019, the petitioner during the said period admittedly has not been filed any objection. As per pleadings of the petitioner himself he had filed his first objection on 10.12.2019 that is much after the prescribed period provided for submission of objections. Moreover, Another aspect which needs to be considered is that the election notice has already been published on the 23.12.2019.
5. The High Court of Madhya Pradesh in a similar matter in the case of **Khumano Bai Vs State of Madhya Pradesh and Ors.** reported in 1995MPLJ67 also reported in 1994SCCOnlineMP132 in paragraph 23 has held as under:-

“23. 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. The aforesaid view has further been reiterated by the Madhya Pradesh High Court again in the case of **Anjna Mulkalwar Vs. State of M.P. and Ors.** reported in 1998(2) J.L.J.328 wherein paragraph 16 in the Madhya Pradesh High Court referring to the Judgment rendered in the case of Khumano Bai(Supra) has held as under:-

“16 From the aforesaid scheme of the Rules it is graphically clear that after claims and objections are disposed of the voters' list attains finality and no correction, inclusion or exclusion is permissible. It is enjoined under the proviso to Sub-rule (2) of Rule 10 that no amendment is to be carried out in the voters' list after the publication of notice under Rule 27. This Court in the case of Khumano Bai (Supra) while dealing with this aspect has held as follows:-

“23. 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.

7. Recently another election matter came up before the Division Bench of this High Court in a Bunch of writ petitions the lead among which being WPC No. 3540/2019 and other analogous writ petitions wherein the Division Bench of this Court taking into consideration the judgment of the Hon'ble Supreme Court in the case of **Anugrah Narain Singh V. State of U.P.**, (1996) 6 SCC 203 and in the case of **Mushe Khan V. State of Rajasthan**, AIR 2015 Rajasthan 35 in Paragraph 5 and Paragraph 6 have held as under:-

“5. The learned counsel for the State and the Learned Counsel for the State Election Commission submit 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 U.P.**, (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. Given the aforesaid legal position as it stands based on the judgments cited above and also considering the fact that the petitioner has himself admittedly not filed any objections within the prescribed time limit as per schedule of the respondents, the writ petition being devoid of merits the same accordingly fails and stands dismissed.

Sd/-

(P. Sam Koshy)
Judge