

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 206 of 2020**

1. Tekram Patel S/o Late Shri Baldev Patel, Aged About 44 Years, Caste - Marar, Resident Of Village Bhedi, Post - Doundilohara, Tahsil - Doundilohara, District - Balod, Chhattisgarh
2. Ramsahare Sazhu S/o Shri Parasram Sahu, Aged About 54 Years Caste - Teli, Resident Of Village Bhedi, Post - Doundilohara, Tahsil - Doundilohara, District - Balod, Chhattisgarh
3. Rupesh Kumar Sinha S/o Dular Singh Sinha, Aged About 43 Years Caste - Teli, Resident Of Village Bhimpuri, Post - Rengadabri, Tahsil - Doundilohara, District - Balod, Chhattisgarh
4. Ghanshyam Sahu S/o Shri Ramlal Sahu, Aged About 42 Years, Caste - Teli, Resident Of Village Karatutola, Post - Magchuwa, Tahsil - Doundilohara, District - Balod, Chhattisgarh
5. Reman Atal S/o Late Shri Parmeshwari Singh, Aged About 42 Years Caste - Teli, Resident Of Village Andi, Post - Doundilohara, Tahsil - Doundilohara, District - Balod, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat, Mahanadi Bhawan, Mantralaya New Raipur, District - Raipur Chhattisgarh
2. Collector (District Election Officer) Balod, District Balod, Chhattisgarh
3. Sub Divisional Officer (Revenue) Doundilohara, District Balod Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vinod Kumar Sharma, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

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

17.01.2020

1. The challenge in the present writ petition is to the action on the part of the respondents in not giving any reservation to the category of Other Backward Classes in Block Doundilohara, district Balod.
2. So far as the reservation of Wards is concerned, the same is dealt with in accordance with Section 17 of the Chhattisgarh Panchayat Raj Adhiniyam. For ready reference the relevant Clause of Section 17 is reproduced hereinunder:

“17. (1) In every Gram Panchayat there shall be a Sarpanch and an Up-Sarpanch. A person who-

- (i) is qualified to be elected as panch;
- (ii) is not a member of either House of Parliament or member of State Legislative Assembly; and
- (iii) is not Chairman or Vice-Chairman of Co-operative Society;

shall be elected as a Sarpanch, subject to provisions of sub-sections (2), (3) and (4), by persons whose names are included in the list of voters of the Gram Panchayat area in such manner as may be prescribed.

(2) (i) Such number of seats of Sapanchas of Gram Panchayats shall be reserved for Scheduled Castes and Scheduled Tribes in the Gram Panchayat within the block which bears the same proportion to the total number of Sarpanchas in the block as the proportion of the Scheduled Castes and Scheduled Tribes in the block bears to the total

population of the block;

(ii) Where the total population of Scheduled Castes and Scheduled Tribes in the Block is less than fifty percent, twenty five percent of seats of Sarpanchas of Gram Panchayats within the Block shall be reserved for other Backward Classes.

(4) The seats reserved under this section shall be allotted by the prescribed authority in the Gram Panchayat within the block by rotation in the prescribed manner.

[Provided that the Gram Panchayat, which has no population of Scheduled Castes or Scheduled Tribes or other Backward Classes, shall be excluded for allotment of seat reserved for Scheduled Castes, Scheduled Tribes or other Backward Classes, as the case may be]

3. The Clause relevant in the present writ petition is Clause ii of Sub-Section 2 of Section 17 which clearly stipulates that where population of Scheduled Castes and Scheduled Tribes in a Block is less than 50% there shall be reservation of OBC of 25% which otherwise means that in the event of the population of Scheduled Castes and Scheduled Tribes combined together exceeds more than 50%, the reservation to OBC category need not be made. The said logic seems to be with an intention to ensure that the reservation does not exceed 50%.
4. In the instant case, from Annexure P-1 dated 30.11.2019 it clearly reflects that the population of SC & ST combined together in the said Block of Doundilohara exceeds more than 50%. Under the circumstances, if the respondent authorities have excluded the OBC from reservation, the same cannot be said to be bad in law or arbitrary in any manner. This Court is therefore reluctant to interfere with the writ petition on this ground.

5. There is yet another ground on which this Court is not inclined to entertain the writ petition that is the bar envisaged under Article 243(O) of the Constitution of India which specifically bars interference in electoral matters.
6. This view of the Court stands fortified from the judgment of the Division Bench of this High Court in the case of Manoj Kansari Vs. State of Chhattisgarh and others in WPC No.3540/2019 decided on 02.12.2019.
7. The writ petition accordingly stands rejected.

Sd/-
P. Sam Koshy
Judge