

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 195 of 2020**

Rakesh Sarthi S/o Mohit Sarthi Aged About 32 Years R/o Village Padmi, Block - Saja , District - Bemetara Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, Civil And Revenue District Raipur Chhattisgarh.
2. The Collector Bemetara , District Bemetara, Chhattisgarh
3. Sub - Divisional Officer (Revenue) Saja, District Bemetara Chhattisgarh.
4. Tahsildar - Cum- Returning Officer Saja District Bemetara Chhattisgarh.
5. Rameshwar Satnami S/o Sukalu Village Padmi , Tahsil - Thankhamhariya, Block - Saja , District Bemetara Chhattisgarh.
6. Chhattisgarh State Election Commission (Panchayat) Through Its Secretary Dau Kalyan Singh Bhawan, Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vaibhav A. Goverdhan, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.
For Respondent No.6	:	Mr. R.S. Marhas, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/01/2020**

1. The challenge in the present writ petition is to the act on the part the respondent No.4 in improperly accepting the nomination of the respondent No.5 as a candidate for the post of Sarpanch for Gram Panchayat Padmi, Janpad Panchayat Saja, District Bemetara. The grievance of the petitioner also is that of the rejection of the revision preferred by the petitioner before the Sub-Divisional Officer (Revenue)-respondent No.3.

2. At the outset, this Court is of the opinion that the present writ petition at this stage would not be maintainable taking into consideration the bar envisaged under Article 243(O) of the Constitution of India. Moreover, there is also a specific remedy provided to the petitioner under the **Chhattisgarh Panchayats (Election Petitions Corrupt Practices and Disqualification for Membership) Rules, 1995**, wherein Rule 21(d)(i) provides for a remedy of preferring an Election petition, even in the event of an improper acceptance of a nomination.
3. The counsel for the petitioner submits that since the aforesaid provision of law would come into force only after the results are declared and therefore as of now the petitioner does not have any other remedy, but to approach this Court for judicial review under Article 226 of the Constitution of India is concerned. This Court is of the opinion that once when there is a bar under the Constitution of India under Article 243(O) of the Constitution of India and there being a specific remedy provided under the provisions of the aforementioned Rules of 1995, the writ petition would not be maintainable as has been held in the judgment of the Hon'ble Supreme Court in the case of “**Avtar Singh Hit v. Delhi Sikh Gurdwara Management Committee & Ors.**” 2006(8) SCC 487.
4. The said view of the Hon'ble Supreme Court has also been further reiterated by the Division Bench of this Court recently vide its judgment dated 02.12.2019 in **WPC No. 3540/2019 (Manoj Kansari v. State of Chhattisgarh & Ors.)**.

5. It would also fruitful to mention at this juncture the Full Bench decision of the Madhya Pradesh High Court in this regard reported in **AIR 1971 MP 195 (Malam Singh v. The Collector, Sehore, M.P. & Others)**, wherein in paragraph No. 16, the Full Bench has held as under:

“16. In view of the provisions of the Madhya Pradesh Panchayats Act, 1962, which provides for an adequate remedy, namely, the remedy of an election petition to be presented after the election is over, for all grievances whether grounded on the ultimate result of the election or upon any interlocutory order passed in the process of election, we are of the view that, where that remedy is available, it would not be proper for the High Court to exercise its undoubted powers under Articles 226 and 227 of the Constitution for interfering with an interlocutory order passed during the process of election, save in very exceptional circumstances.”

6. For the aforesaid reasons, the present writ petition fails and is accordingly rejected reserving the right of the petitioner to avail other remedies available to him under the provisions of law.

Sd/-
(P. Sam Koshy)
Judge

Ved