

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 253 of 2020

1. Vimal Kumar Nayak S/o Shri Kedar Nath Nayak, Aged About 33 Years, R/o Village - Sarabkombo, Tahsil – Bagicha, District Jashpur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Its Secretary, Department of Panchayat And Rural Development, Secretariat At Mahanadi Bhawan, New Raipur, District : Raipur, Chhattisgarh
2. Chhattisgarh State Election Commission, Through Its Secretary, Near DKS Bhawan, Old Ministry, Raipur, District : Raipur, Chhattisgarh
3. Collector, District : Jashpur, Chhattisgarh
4. Returning Officer (Panchayat), Janpad Panchayat - Bagicha, District : Jashpur, Chhattisgarh
5. Suresh Jain S/o Nemichand Jain, R/o Village And Post - Sarabkombo, Tahsil – Bagicha, District : Jashpur, Chhattisgarh

---Respondents

For Petitioner :Mr. Jai Prakash Shukla, Advocate

For Respondents :Mr. Jitendra Pali, Dy. A.G. & Mr. R. S. Marhas, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21.01.2020

1. The challenge in the present writ petition is the improper acceptance of the nomination papers of respondent no.5.

2. The ground of challenge is that the respondent no.5 has not submitted the details of the criminal records while submitting the nomination paper.
3. At the outset, this Court is of the opinion that the writ petition would not be maintainable for the reason that it is an electoral process which is under challenge in the present writ petition and there is a specific bar envisaged under Article 243(O) of the Constitution of India. Moreover, the ground on which the writ petition has been filed is one of the grounds available to the candidate for raising an election petition under Rule 21 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 which prescribes improper acceptance of any nomination to be a ground for an election to be declared void.
4. The view of this Court stands fortified by the judgment of the Hon'ble Supreme Court in the case of **Avtar Singh Hit Vs. Delhi Sikh Gurdwara Management Committee and others** reported in **(2006) SCC 487** and also the recent judgment of the Division Bench of this Court in the case of **Manoj Kansari Vs. State of Chhattisgarh and others** decided on 02.12.2019 in **WPC No. 3540 of 2019**.
5. Reserving the right of the petitioner to avail other remedies open to him under the law, the writ petition stands rejected as not maintainable.

Sd/-
(P. Sam Koshy)
Judge