

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2070 of 2020**

Ishwar Sahu S/o Shri Ram Ratan Sahu, Aged About 35 Years, R/o Village Jaroundha, Janpad Panchayat Takhatpur, District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya Bhawan, Atal Nagar, Naya Raipur.
2. Sub Divisional Officer (Revenue) Kota, Specified Officer, Gram Panchayat, Election Petition, Kota, District Bilaspur, Chhattisgarh.
3. Santosh Sahu S/o Lakhan Lal Sahu, Aged About 37 Years, R/o Village Jaroundha, Tahsil Takhatpur, District Bilaspur, Chhattisgarh
4. Returning Officer, Gram Panchayat Jaroundha, Janpad Panchayat Takhatpur, District Bilaspur, Chhattisgarh
5. Presiding Officer, Poling Booth No.246, Gram Panchayat Jaroundha, Janpad Panchayat Takhatpur, District Bilaspur, Chhattisgarh
6. Presiding Officer, Poling Booth No.247, Gram Panchayat Jaroundha, Janpad Panchayat Takhatpur, District Bilaspur, Chhattisgarh
7. Presiding Officer, Poling Booth No.248, Gram Panchayat Jaroundha, Janpad Panchayat Takhatpur, District Bilaspur, Chhattisgarh
8. Presiding Officer, Poling Booth No.249, Gram Panchayat Jaroundha, Janpad Panchayat Takhatpur, District Bilaspur, Chhattisgarh
9. Ashwani Srivas S/o Sukhi Ram Srivas, Aged About 40 Years, R/o Gram Panchayat Jaroundha, Janpad Panchayat Takhatpur, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ravindra Agrawal, Advocate
For Respondents 1 & 2	:	Mr. Sudeep Verma, Dy. Govt. Advocate

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

14.09.2020

1. The present writ petition has been filed challenging the order dated 29.07.2020 passed by the Sub Divisional Officer (Revenue) acting in the capacity of Specified Officer in Gram Panchayat Election Petition whereby the preliminary objection raised by the petitioner has been rejected. The writ petition has been filed also challenging the order dated 24.08.2020 passed by the same authority i.e. the SDO(R) whereby the authority has decided to proceed with the election petition without framing issues and without recording evidence on the disputed question of facts.
2. From reading of the writ petition it clearly reflects that the petitioner is primarily aggrieved of the decision of the authority in not appreciating the preliminary objection that the petitioner has raised in respect of the election petition being not maintainable. According to petitioner the election petition is not supported with an application for recounting which is required to be filed immediately after the results were declared before the Returning Officer. According to the petitioner, it has to be verified whether any application has been filed before the Returning Officer or not, and unless the same is not filed before the Returning Officer promptly on that ground alone, the election petition may not be maintainable. The second ground is that the petitioner had moved an application for framing of issues and recording of evidences before proceeding further with the election petition which has not been considered by the authority.

3. So far as the preliminary objection which the petitioner had raised and which has been rejected by the Specified Officer at the first instance is concerned, this Court is of the opinion that even if the preliminary objection has been rejected by the Specified Officer, the fact which still remains is that while deciding the election petition, the Specified Officer i.e. the Sub Divisional Officer (R) has to consider the aspect whether the election-petitioner had in fact filed an objection before the Returning Officer when the results were being declared or not. The Authority shall also consider as to the effect of the non-filing of the objection before the Returning Officer and the effect of filing of the objection before any other Officer other than the Returning Officer. It is expected that the Specified Officer while deciding the election petition shall specifically deal with the said issue.
4. As regards the second contention of the petitioner in respect of the issues not being framed, the said issue is by now well settled by a catena of decisions of this Court, wherein it has been held that framing of issues while deciding election petition is mandatory. Therefore, at this stage, since the election petition is still proceeding, it is expected that the Specified Officer shall frame specific issues raised by the parties in the pleadings to the election petition and thereafter, after granting opportunity of hearing to the parties and opportunity to produce their evidence, shall decide the election petition on its own merits in accordance with law.
5. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge