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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2112 of 2020**

Chandra Kumar Kaushik S/o Harak Ram Kaushik, Aged About 38 Years, Sarpanch Gram Panchayat Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh

---- Petitioner**Versus**

1. Govind Kaushik R/o Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh
2. Chandrashekhra Kaushik R/o Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh
3. Dheeraj Kaushik R/o Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh
4. Mahendra Santu Kaushik R/o Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh
5. Parmeshwar Kaushik R/o Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh
6. Ramnath Kaushik R/o Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh
7. Sachhidanand Kaushik R/o Gochhiya, Tahsil Sahaspur Lohara, District Kabirdham, Chhattisgarh
8. The Returning Officer (Panchayat) Janpad Panchayat Sahaspur Lohara, District Kabirdham, Chhattisgarh
9. Sub Divisional Officer (Revenue) Kawardha, District Kabirdham, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Sudhir Kumar Verma, Advocate
For Respondent no.9	:	Mr. Vivek Ranjan Tiwari, Addl. A.G.

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

25.09.2020

1. The challenge in the present writ petition is to the notice issued by the respondent no.9 in the election petition filed by the respondent no.1.
2. The brief facts are that the election for the post of Sarpanch of Gram Panchayat, Gochhiya, Tahsil Sahaspur Lohara, district Kabirdham was held on 28.01.2020. The petitioner and the respondent no.1 both were candidates for the said post and both got same number of votes i.e. 385 each. Since both the candidates got equal votes, the Returning Officer i.e. the respondent no.8 decided to declare winning candidate by applying the chit system and in the process, the petitioner was declared elected. Subsequently, the respondent no.1 is said to have filed an election petition after about 3 weeks time before the respondent no.9 who in turn registered the election petition and issued the notice to the petitioner which has led to the petitioner filing the present writ petition questioning the issuance of notice itself by the respondent no.9.
3. The contention of the petitioner is that the election petition at the outset should have been rejected by the respondent no.9 on the ground that immediately after counting was held on 28.01.2020, the respondent no.1 had not raised any objection whatsoever. According to the petitioner, if at all if the respondent no.1 had any objection, he should have immediately asked the Returning Officer for recounting after making an objection in respect of the same. The respondent no.1 even after declaring of the results did not file any objection before the

Returning officer and straightaway after about 3 weeks from the date of counting had filed the election petition.

4. Considering the fact that it is only a notice which has been issued by the respondent no.9 which has led to the filing of the present writ petition, this Court is of the opinion that it would be more appropriate if the writ petition is disposed of at this juncture directing the petitioner to appear before the respondent no.9 and submit his preliminary objection in respect of the contentions that he has raised in the present writ petition and the respondent no.9 in turn is directed to consider the preliminary objection first and only thereafter, if required, may proceed and decide the election petition on its own merits.
5. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge