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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC NO. 2478 OF 2020

- Smt. Parwati Sahu, W/o Shri Budhdhu Ram Sahu, aged about 50 years, R/o Village Gangpur, Post Pipariya, Police Station Pipariya, Tahsil Kawardha, District Kabirdham (CG)

… Petitioner(s)

versus

1. State of Chhattisgarh, through the Secretary, Panchayat Department, Mantralaya, Atal Nagar, New Raipur, District Raipur (CG)
2. Sub Divisional Officer (Revenue), Kawardha, District Kabirdham (CG)
3. Smt. Bhagwati Chandrawanshi, W/o Jhamman Lal, aged about 55 years, R/o Village Gangpur, Post Pipariya, Police Station Pipariya,, Tahsil Kawardha, District Kabirdham (CG)
4. Smt. Rajeshwari Chandrawanshi, W/o Love Kumar, aged about 28 years, R/o Village Gangpur, Post Pipariya, Police Station Pipariya, Tahsil Kawardha, District Kabirdham (CG)
5. Returning Officer (Panchayat) & Tahsildar, Kawardha, Address: Tahsil Office, Kawardha, District Kabirdham (CG)
6. Smt. Pushpa chandrawanshi, W/o Shri Dinesh Chandrawanshi, aged about 30 years, R/o Village Gangpur, Post Pipariya, Police Station Pipariya, Tahsil Kawardha, District Kabirdham (CG)

… Respondent(s)

For Petitioner	:	Mr. Pushpendra Kumar Patel, Advocate.
For Respondents 1, 2 & 5	:	Mr. Mateen Siddiqui, Dy. A.G.

Hon'ble Mr. Justice P. Sam Koshy

Order on Board

29.10.2020

1. Challenge in the present Writ Petition is to the impugned order dated 8.10.2020 (Annexure P-1) passed by the Sub Divisional Officer (Revenue), Kawardha in Revenue Case No. 160-B/121-2019-20.

2. The said case is an Election Petition which has been registered arising out of the election of the post of Sarpanch of Gram Panchayat Gangpur under Police Station Pipariya, Tahsil Kawardha, District Kabirdham.

3. Vide the said impugned order, the Election Tribunal has passed an order calling upon the Presiding Officers of Polling Booth No.89 and Polling Booth No.90 as witnesses in the said Election Petition. It is this order which is under challenge in the present Writ Petition.

4. According to the learned Counsel for Petitioner, the order is bad for the reason that the Petitioner herself has raised an objection of rejecting the Election Petition on the ground of non-joinder of necessary parties, inasmuch the Presiding Officers of both the aforementioned Polling Booths were necessary parties. According to the Counsel for Petitioner, the Petitioner's objection has not been decided by the Election Tribunal; on the contrary, the application of the Election Petitioner has been allowed for calling upon the aforementioned two Presiding Officers for being examined as a witness. This, according to the Counsel for Petitioner, would adversely affect the interest of the Petitioner while contesting the case on merits.

5. Learned Deputy Advocate General, opposing the petition, submits that the present Writ Petition is absolutely devoid of merits for the reason that no prejudice as such has been caused to the interest of the Petitioner. The two Presiding Officers are independent witnesses and are employees of the State Government and they have been called upon to substantiate the contention which the Election Petitioner has raised before the Election Tribunal, as such, the Writ Petition deserves to be dismissed.

6. Having heard the contentions put forth on either side and on perusal of records, what needs to be considered is the fact that the impugned order as such is one which has been passed at the behest of the person who has raised an election dispute. The Election Petitioner moved an application for calling upon certain witnesses to substantiate their contentions. Considering the totality of the case, the said application was allowed. Moreover, as has been contended by the learned Deputy Advocate General, the two persons who have been called upon as witnesses are independent persons not associated in any manner to either of the disputing parties and as such no

prejudice would be caused if these two persons are called as witness. Under the circumstances, this Court does not find any strong case made out by the Petitioner calling for an interference with the impugned order.

7. However, while disposing of the present Writ Petition, this Court would like to mention that there appears to be some preliminary objection raised by the Petitioner before the Election Tribunal. It is always expected that the Tribunal while deciding the matter would consider and decide the preliminary objection raised by the Petitioner first before finally deciding the Election Petition.

8. With the aforesaid observations, Writ Petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

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