

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2896 of 2020

- Ashok Kumar Sahu S/o Shri Khamman Prasad Sahu, Aged About 49 Years R/o Ward No. 9, Village And Post Pithampur, Police Station And Tahsil Janjgir, Civil And Revenue District Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Government Of Chhattisgarh, Mahanadi Bhawan, Atal Nagar, New Raipur, Chhattisgarh
2. Collector Janjgir, Civil And Revenue District Janjgir Champa Chhattisgarh
3. Sub Divisional Officer (Revenue) Janjgir/ Prescribed Authority, Civil And Revenue District Janjgir Champa Chhattisgarh
4. Election Officer (Panchayat Election), Janpad Panchayat Nawagarh, Civil And Revenue District Janjgir Champa Chhattisgarh
5. Anil Kumar Sahu, S/o Shri Dujram Sahu, Aged About 32 Years R/o Ward No. 4, Village And Post Pithampur, Police Station And Tahsil Janjgir, Civil And Revenue District Janjgir Champa Chhattisgarh
6. Rohini Kumar Sahu, S/o Shri Santram Sahu, Aged About 40 Years R/o Ward No. 12, Village And Post Pithampur, Police Station And Tahsil Janjgir, Civil And Revenue District Janjgir Champa Chhattisgarh
7. Samundar Sahu S/o Shri Manharan Sahu, Aged About 33 Years R/o Ward No. 9, Village And Post Pithampur, Police Station And Tahsil Janjgir, Civil And Revenue District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	:	Shri Ramesh Kumar Nayak, Advocate
For State	:	Ms. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26.11.2020

Heard

1. The instant petition has been filed for the reason that the election petition having been filed by the petitioner against the respondents No. 5 to 7, the court of SDO who is acting as the competent authority under the C.G.

Panchayat Raj Adhiniyam has directed to list the case for final hearing without evidence being recorded, therefore order of SDO may be stayed.

2. Perusal of records would show that the petitioner is the applicant in the election petition and order sheet would show that the respondent No. 2 namely Anil Kumar Sahu, S/o Shri Dujram Sahu though was served but he was proceeded ex parte. The counsel for respondents No. 3 & 4 though appeared but have not filed their reply. If the respondent No. 3 namely Rohini Kumar Sahu, S/o Shri Santram Sahu, who is the main contestant has not filed the reply, it is for the Court to proceed under Order 8 Rule 5 (2) of the CPC. In absence of any reply, the issue cannot be framed consequently the evidence is a matter of discretion. This Court in absence of any reply cannot compel the tribunal below to record evidence. Therefore, the SDO who is adjudicating the election petition shall proceed in accordance with the Rule 11 of the C.G. Panchayats (Election Petitions, Corrupt Practices and Disqualification from Membership) Rules, 1995.
3. In view of the above, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti