

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR**

(Arising out of order dated 9.12.2019 passed by learned Single Judge in WPC
No.4554/2019)

WA No. 205 of 2020

- Santosh Nag S/o Mr. Jaya Nag Aged About 33 Years Caste - Ganda, R/o D.N.K. Colony, Kondagaon, Tahsil And District Kondagaon Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary Of Urban Development Administration And Development Department, New Raipur Chhattisgarh.
2. Chhattisgarh State Election Commission Near DKS Bhawan, Old Mantralaya Road, Moti Bagh, Raipur Chhattisgarh.,.
3. Collector Cum Returning Officer Kondagaon, District Kondagaon Chhattisgarh..
4. Chief Municipal Officer (CMO) Municipality Kondagaon Chhattisgarh.
5. Nipendra Mishra S/o G.C. Mishra Aged About 39 Years R/o Vikas Nagar, Kondagaon Chhattisgarh.
6. Gunmati Nayak D/o Haroprasad Nag Aged About 35 Years R/o D.N.K. Colony, Kondagaon Chhattisgarh.
7. M.D. Baghel S/o Bisru Ram Baghel Aged About 61 Years R/o Tahsilpara, Kondagaon Chhattisgarh.
8. Neelambar Jali S/o Late Jairam Aged About 36 Years R/o D.N.K, Colony, Kondagaon Chhattisgarh.

---- Respondents

For Appellant	:-	Mr. Shobhit Koshta, Advocate
For Respondent-State	:-	Mr. Chandresh Shrivastava, Dy.GA
For Respondent No.2	:-	Mr. R.S. Marhas, Advocate

Proceedings through Video Conferencing

Hon'ble Shri Prashant Kumar Mishra, Ag.CJ

Hon'ble Smt. Rajani Dubey, J

Judgment On Board

By

Prashant Kumar Mishra, Ag.CJ

15/07/2021

1. Heard.
2. I.A. No.01, application for condonation of delay in preferring the instant writ appeal.
3. On due consideration, delay is condoned. Accordingly, I.A. No.1 stands allowed.
4. WPC No.4554/2019 was preferred by the present appellant (henceforth 'the petitioner') challenging rejection of his nomination for election to the post of Councillor of Municipal Council, Kondagaon. Admittedly, since after the impugned order has been passed, dismissing the writ petition, the election has already taken place and as informed by learned counsel for the petitioner, he has already preferred an election petition which is pending consideration before the District Judge, Kondagaon.
5. Learned counsel for the petitioner would restrict his prayer in the present writ appeal to direct decision on his election petition on its own merits. He would submit that the observation in paragraphs 6 to 8 in the impugned order passed by learned Single Judge would virtually decide the

fate of his election petition without even trial.

6. Having gone through the order passed by the writ Court, if the petitioner had an alternative remedy by preferring the election petition, an order on merit would frustrate and predetermine his election petition, therefore, the present writ appeal is disposed of with direction to the election tribunal i.e., District Judge, Kondagaon to decide election petition, on its own merits, expeditiously without being influenced by any observation on merits of the case as observed by learned Single Judge in paragraphs 6 to 8 of the impugned order in WPC No.4554/2019.
7. Accordingly, the writ appeal stands disposed of, leaving the parties to bear their own cost(s).

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

SD/-

(Rajani Dubey)
Judge

Ayushi