

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1296 of 2021

- Santoshi Markam W/o Gangaram Markam, Aged About 27 Years Caste Gond, R/o Village Borai Tehsil Nagri, District Dhamtari (Chhattisgarh)

---- Petitioner

Versus

1. Kiran Devi Bhoyar W/o Rajesh Caste Mahar, R/o Village Borai, Tahsil Nagri, District Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh
2. Ankarani Thakur W/o Abhayram Thakur, Caste Gond, R/o Village Borai, Tahsil Nagri, District Dhamtari Chhattisgarh
3. Kumeshwari Netam W/o Vijay Netam, Caste Gond, R/o Budra, Tahsil Nagri, District Dhamtari Chhattisgarh.
4. Shri N.L. Sahu (Naib Tahsildar Nagri), Returning Officer, Nagri, Gram Panchayat Election, Tahsil Nagri, District Dhamtari Chhattisgarh
5. The State Of Chhattisgarh Through Sub Divisional Officer (Revenue), Nagri, District Dhamtari Chhattisgarh.

---- Respondents

For petitioner	:	Mr. H.A.P.S. Bhatia, Advocate
For State	:	Mrs. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

08.03.2021

Heard.

1. The present writ petition has been filed by the petitioner against the order dated 14.08.2020 wherein the election petition preferred by the petitioner was dismissed summarily on the ground that the security deposit, as required, under the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 [henceforth referred to as 'the Rule 1995'] could not be made.
2. Learned counsel for the petitioner submits that respondent No. 1 was elected for the post of Sarpanch and the said election was thereafter subject of challenge by the petitioner as he filed an Election Petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993. He further submits that the

respondent No. 1 do not belong to a Scheduled Caste category whereas she contested the election under the SC category for which she was not entitled and therefore the Election Petition was filed by the petitioner. On Election Petition having been filed, the same was dismissed summarily on the ground that the security deposit has not been deposited, therefore the petitioner prays that the case may be directed to be remanded back to the Election Commission to adjudicate afresh after giving an opportunity of hearing.

3. Rule 7 and Rule 8 of the Rule 1995 reads as under:-

“7. Deposit of security.- At the time of presentation of an election petition, the petitioner shall deposit with the specified officer a sum of Rs. Five Hundred as security. Where the election of more than one candidate is called in question, a separate deposit of an equivalent amount shall be required in respect of each such returned candidates.

8.Procedure on receiving petition.- If the provisions of rule 3 or rule 4 or rule 7 have not been complied with, the petition, shall be dismissed by the specified officers:

Provided that the petition shall not be dismissed under this rule without giving the petitioner an opportunity of being heard.”

4. Reading of the impugned order shows that initially no deposit of security amount was made and thereafter even the petitioner was given the opportunity to make the deposit, the same was also not made. Rule 7 of the Rule 1995 is mandatory in nature and the order-sheet which is placed on record shows that the petitioner was appearing and the order sheet dated 21.07.2020 shows that the objection was raised as the petitioner has not deposited the security amount thereafter the case was filed for 14.08.2020. On that date too the security amount was not deposited and eventually the Election Petition was dismissed.

5. Consequently, it appears that after giving opportunity of hearing to the petitioner on earlier date when the specific objections were made, the petitioner on next date too did not deposit the security amount, so opportunity to deposit was granted to the petitioner. However, when the security amount was not deposited, the Election Petition was dismissed. Since Rule 7 of the Rule 1995 being mandatory in nature, therefore no interference is warranted by this Court under Article 226 of the Constitution of India.

5. The writ petition is hereby dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE

Vishakha