

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1775 of 2021

Dhani Ram, S/o. Shri Abhilal, Aged About 34 Years, R/o. Piparbhavna (Ga), Tahsil Bilaigarh, District - Baloda Bazar - Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. Toshram, S/o. Shri Ishwar Prasad, Caste – Teli, R/o. Piparbhavna (Ga), Tahsil Bilaigarh District - Baloda Bazar - Bhatapara Chhattisgarh.
2. Rukhmani, W/o. Shri Abhilal, R/o. Piparbhavna (Ga), Tahsil Bilaigarh District - Baloda Bazar - Bhatapara Chhattisgarh.
3. Ashok, S/o. Govardhan Sahu, R/o. Piparbhavna (Ga), Tahsil Bilaigarh District - Baloda Bazar - Bhatapara Chhattisgarh.
4. Amit Kumar Shrivastava, Election Officer / Tahsildar, Tahsil Bilaigarh District - Baloda Bazar - Bhatapara Chhattisgarh.
5. The Election Tribunal (Sub Divisional Officer), Sub Division Bilaigarh District - Baloda Bazar - Bhatapara Chhattisgarh.

---- Respondents

For Petitioner : Mr. Sandeep Dubey, Advocate

For State/Respondent No.5 : Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

25.03.2021

Heard

1. Learned counsel for the petitioner would submit that the petitioner is an elected Sarpanch of Village Piparbhavna (Ga). The election petition was filed wherein certain issues were framed on 13.01.2021 and one of the issue was that the petitioner has been convicted in a criminal case on 28.09.2019 and he was sentenced to 1 month R.I. and fine of Rs.1000/-. It is stated on further challenge the said conviction has been suspended in criminal revision; therefore, the petitioner wants to incorporate those facts as an additional issue as to whether the suspension of sentence would come as rider to hold an office by elected member. However, the Election Tribunal by a cryptic order dated 10.02.2021 has dismissed the petition for framing of the additional issue without assigning any reason and simplicitor the orders have been passed, which is illegal.

2. Perusal of the order sheet dated 10.02.2021 would show that the Election Tribunal has passed an order that the issue cannot be amended so far, that order may be technically correct but the fact is that the issue has already been framed that the petitioner has been convicted in a case under Section 323 of I.P.C. on 28.09.2019 and the petitioner has claimed that the said conviction and sentence has been suspended. Therefore, it may have a necessary nexus to the issue. Considering the same, the case is remanded back to the Tribunal. The order dated 10.02.2021 is set aside and the Tribunal is directed to look into the matter as to whether any additional issue is required to be framed or not and accordingly if it is so it may frame the additional issue and thereafter may proceed with the election petition.
3. With the aforesaid observation, the petition stands disposed off.

Aks

Sd/-
(Goutam Bhaduri)
Judge