

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2483 of 2021

1. Ajit Patkar S/o Shri Ram Chandra Patkar Aged About 39 Years R/o Barbaspur, Thana Podi, Tehsil Manendragarh District Koriya Chhattisgarh
2. Manoj Kumar Sahani S/o Shri Satyanarayan Sahani Aged About 32 Years R/o Barbaspur, Thana Podi, Tehsil Manendragarh District Koriya Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Chhattisgarh State Election Commission Through The Secretary, Near Dau Kalyan Singh Bhawan, Raipur Chhattisgarh
3. Collector District Koriya Chhattisgarh
4. S. D. O. (Returning Officer) District Panchayat District Koriya Chhattisgarh
5. S. Sawan Kumar S/o S. S. Narayana Presently Sarpanch Of Gram Panchayat Barbaspur, Thana Podi, Tehsil Manendragarh District Koriya Chhattisgarh
6. The District Education Officer Baikunthpur District Koriya Chhattisgarh
7. Block Education Officer Manendragarh District Koriya Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Sanjeev Verma, Advocate
For State	:	Mr. Pawan Kesharwani, P.L.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

01.07.2021

1. Heard
2. The present writ petition has been filed by the petitioner-Ajit Patkar who claims to be the President of Dabang Duniya Dainik Akhbar Bureau Koriya and also the President of Bharatiya Rashtriya Patrakar Sangh Sarguja.
3. Learned counsel for the petitioners submits that the respondent No. 5 - S. Sawan Kumar has been selected as Sarpanch of Gram Panchayat Barbaspur Tehsil Manendragarh Distt. Koriya (C.G.). He submits that while the respondent No. 5 was contesting the election, he concealed his actual caste

and declared himself as a member of 'Scheduled Caste' whereas he belongs to General category. He further submits that in the admission register of the school, his caste has been shown as 'Sonnar', which comes under the General category. It is further submitted that the respondent No. 5 is causing dictatorship in the area and nobody is allowed to speak, for which, the complaint was made to the Collector and Chief Executive Officer Jila Panchayat Koriya (collectively filed as Annexure P/2) but nothing has transpired. He submits that the life and personal liberty and right to life of the petitioner is in stake, as the respondent No. 5 at any odd hours, used to enter the house of anyone and commits trespass. It is stated that therefore, under Section 36 read with Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam 1993, he is liable to be removed even the due enquiry is not conducted.

4. The primary submission of the petitioner is that the respondent No. 5 though belongs to General category has contested the election on the basis of the forged certificates. If the election was contested on the basis of a particular caste certificate and the same is valid and not canceled further when the respondent No. 5 is in hold of the caste certificate of Scheduled Caste, unless the said caste certificate is set-aside under the provisions of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act 2013 [hereinafter referred as 'the Act of 2013'], this Court cannot adjudicate the veracity of same ignoring the statutory scheme.
5. Mere say of the petitioner is that the respondent No. 5 do not belong to the Scheduled Caste Category cannot be accepted, as entire mechanism has been provided under the Act of 2013 is required to be followed for cancellation of certificate.
6. With respect to the submission that the personal liberty and right to life of the

petitioner is in stake, it also *prima facie* factually not supported with the circumstances. Since the petitioner claims himself to be the editor of some newspaper named and styled as Dabang Duniya and the newspapers cutting is placed on record, it cannot be accepted to be conclusive proof of the fact about happening of certain events. If the personal life and liberty of the petitioner is in stake, if the petitioner has been criminally assaulted or if any trespass has been made by the respondent No. 5, then the petitioner can approach to the Police and if the Police is not hearing the complaint, then he has right to institute the suitable complaint before the concerned Magistrate. Only because of the fact that the petitioners No. 1 & 2 are not happy or aggrieved by any act of the respondent No. 5 who has been duly elected under the democratic process, the enquiry cannot be directed to be started without there being any actual facts on record except few paper clipping that too which is controlled and managed by the petitioner No. 1 himself. The petitioner appears to be the author of such news which are published. The paper also appears to be local one which has no national circulation. The petition *prima facie* appears to be motivated, therefore I am not inclined to entertain this petition in exercise of power under Article 226 of the Constitution of India.

7. Accordingly, the writ petition stands dismissed.

Sd/-
(Goutam Bhaduri)
Judge