

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 466 of 2017

Chandrakumar Rajput, S/o Shri Salikram Rajput, Aged About 34 Years,
R/o Village Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Home Department, Mahanadi Bhawan, Mantralaya, New Raipur, P. S. Rakhi, District- Raipur (C.G.)
2. Superintendent of Police, Bemetara, District- Bemetara (C.G.)
3. Station House Officer, Police Station Nandghat, District- Bemetara (C.G.)
4. Pradeep Chauhan, S/o Shri Ghanshyam Chouhan, Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
5. Ramkrishna Dhruw, Posted as Principal, Primary School, Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
6. Narsingh Thakur, Patwari Halka No. 32, Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
7. Mangal Singh Tondon, Posted as Principal, Middle School, Chakraway, Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
8. Ramprasad Chouhan, Posted as Kotwar Gram Chakraway, Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
9. Umeshwari Dhritlahre, Posted as Employment Assistant, Janpad Panchayat Nawagarh, Tahsil Nawagarh, District- Bemetara (C.G.)
10. Usha Baghel, Posted as Upsarpanch, Gram Panchayat Chakraway, Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
11. Bhanu Baghel, Posted as Panch Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
12. Annu, Posted as Panch, Gram Chakraway, Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
13. Jageshwari Baghel, Posted as Panch Gram Chakraway, Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)
14. Ramgopal Maheshwari, R/o Gram Chakraway, Tahsil Nawagarh, District- Bemetara (C.G.)

---- Respondents

For Petitioner : Mr. Prateek Sharma, Advocate.

For State : Mrs. Shubha Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

29.06.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 4 to 14 for committing offence under Sections 420, 468, 467, 471 & 34 of I.P.C.
2. The brief facts as projected by the petitioner are that election of Gram Panchayat Khakravay was held in the month of December, 2014, wherein respondent No. 4- Pradeep Kumar Chauhan was elected as Sarpanch on the basis of affidavit and declaration that he is member of Other Backward Class (OBC) Category. He was selected in reserved category for OBC. The petitioner is also belonged to OBC category and obtained second position in the election. The petitioner filed election petition bearing Case No. 63-A/89/2014-15 before Sub-Divisional Officer, Bemetara, District- Bemetara and he was declared as Sarpanch vide order dated 04.07.2015. Respondent No. 4 executed forged document and contested election of Sarpanch, therefore, the petitioner made a complaint against respondent No. 4 for committing offence under Section 420, 468, 471 of I.P.C. and charge-sheet was filed and at present Criminal Case No. 70/2016 is under trial before the Judicial Magistrate First Class, Bemetara.
3. After passing of order dated 04.07.2015 by Sub-Divisional Officer, Bemetara and after registration of crime, respondent No. 4 again filed application on 20.01.2016 before Tahsildar Nawagarh for issuance of caste certificate declaring him member belonging to OBC along with certificate dated 16.04.2015 issued by himself as Sarpanch Gram Panchayat Chakravay and signed by himself and also put seal of Sarpanch, whereas respondent No. 4 was already removed from the post of Sarpanch on 04.07.2015. The said certificate was also signed

by respondent No. 5 to 14 namely, Ramkrishna Dhruw, Narsingh Thakur, Mangal Singh Tandon, Ramprasad Chouhan, Umeshwari Dhritlahre, Usha Baghel, Bhanu Baghel, Annu, Jageshwari Baghel & Ramgopal Maheshari as witness, despite knowing that respondent No. 4 is not member of OBC. Respondent No. 4 to 14 have prepared forged document, therefore, the petitioner made complaint before Police Station- Nandghat on 31.08.2017, but no action has been taken, therefore, the petitioner made another complaint before Superintendent of Police, Bemetara, District- Bemetara on 01.09.2017, still no action has been taken against respondent No. 4 to 14.

4. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against respondent No. 4 to 14 for committing offence under Sections 420, 468, 467, 471 & 34 of I.P.C.
5. The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of Uttar Pradesh & others**¹, has examined the issue holding that the petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Section 200 of the Cr.P.C. The Supreme Court has again considered and decided the issue in **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage**² and **M. Subramaniam & another Vs. S. Janaki & another**³.
6. Considering the facts and materials on record and in light of the law laid down by Hon'ble the Supreme Court in the above referred judgments, the present writ petition filed under Article 226 of the Constitution of India, is disposed of with liberty to the petitioner to file complaint under Section 200 of the Cr.P.C. before the court of Judicial Magistrate First Class having jurisdiction over the place of offence and in-turn Magistrate will

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

follow the procedure prescribed under the provisions of the Cr.P.C.

7. It is made clear that this Court has not expressed any opinion on merits of the case whether the complaint discloses any criminal offence or not.
8. In view of the above, the instant writ petition is disposed of with the aforesaid liberty granted in favour of the petitioner.

**Sd/-
(Narendra Kumar Vyas)
Judge**

Arun