

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3193 of 2020

- Nirma Gop W/o Sahdev Paikra Aged About 30 Years R/o Village - Jurgum, Janpad Tahsil - Bagicha, Tahsil - Bagicha, District - Jashpur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary Department Of Panchayat And Rural Development, Secretariat At Mahanadi Bhawan, New Raipur, District - Raipur Chhattisgarh
2. Chhattisgarh State Election Commission, Through Its Secretary, Near D K S Bhawan, Old Ministry, Raipur, District - Raipur Chhattisgarh.
3. Sub Divisional Officer (Revenue) Bagicha, District - Jashpur Chhattisgarh
4. Returning Officer (Panchayat Election), Janpad Panchayat - Bagicha, District - Jashpur Chhattisgarh.
5. Tilaso W/o Sorko, Aged About 50 Years R/o Village - Jurgum, Tahsil - Bagicha, District - Jashpur Chhattisgarh.
6. Sangita Paikra, Aged About - 28 Years, R/o Jurgum, Tahsil - Bagicha, District - Jashpur Chhattisgarh.

---- Respondents

For Petitioner : Shri Jai Prakash, Advocate

For Respondents/ State : Shri Gagan Tiwari, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07.01.2021

Heard

1. The present petition is against the order dated 18.11.2020 whereby the preliminary objection raised by the petitioner in an election petition moved under the C.G. Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 ('for short Act of 1995') has been dismissed.
2. Learned counsel for the petitioner submits that the petitioner is an elected

Sarpanch of Village Jurgum and Respondent No. 5 has filled an election petition asking for cancellation of the election. He further submits that as per Rule 4 of Act of 1995 the petitioner should have added all the contesting parties in the election petition and Respondent No. 6 herein was not added in the election petition, therefore, the preliminary objection which is dismissed is bad in law.

3. Perusal of the order would show that the objections was made whether the petitioner belongs to a particular caste of Scheduled Tribe? and whether the Gram Panchayat, Jurgum Ward No. 8 was reserved for such category or not? is to be decided. During the course of the evidence. With respect to non-joinder of party, the officer has directed to add other contestant into the array of the respondents.
4. Learned counsel for the petitioner is unable to satisfy as to what is the relief claimed by Respondent No. 5, wherein the election of the petitioner has been challenged. The relief what is prayed for is not produced before the court so inference can not be drawn.
5. Rule 4 of the Act of 1995 reads as under:-

'4. Parties to the petition:- Where the petitioner in addition to claiming a declaration that the election, of all or any of the returned candidates is void, claims a further declaration that he himself for any other candidate has been duly elected he shall join as respondents to his petition all the contesting candidates at the election.'

6. Reading of the aforesaid rule would show that the respondent has not claimed himself to be elected as elected sarpanch, therefore, the bar of Rule 4 will not apply. Consequently, the dismissal of the preliminary objection do not require any interference by this Court.
7. Accordingly, the petition is dismissed.

Sd/-
(Goutam Bhaduri)

Jyoti

Judge