

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 4384 of 2021

Babli Sahu, W/o. Shri Shri Kishun Sahu, aged about 28 years, R/o. Village Semarkona, Post Office Chhatan, Block Mungeli, District Mungeli, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, through : its Secretary, Department of Panchayat and Rural Development, Chhattisgarh Rajya Mantralaya, Mahanadi Bhavan, Police Station Mandir Hasaud, Naya Raipur, Chhattisgarh.
2. Sub Divisional Officer (Revenue) Mungeli, Chhattisgarh, District : Mungeli, Chhattisgarh
3. Tehsildar, Mungeli, District Mungeli, Chhattisgarh, District : Mungeli, Chhattisgarh
4. Dharmin Bai Kashyap W/o Shri Hira Singh Kashyap, Village Semarkona, Post Office Chhatan, Block and District Mungeli, Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Pallav Mishra, Advocate
For Respondents-State	: Mr. Aman Kesharwani, P.L.
For Respondent No.4	: Mr. Anoop Mazumdar, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/11/2021

1. This petition has been brought praying for issuance of appropriate writ against the respondent No.2.
2. It is submitted by the learned counsel for the petitioner that the petitioner is elected Sarpanch of Gram Panchayat Semarkona, District – Mungeli

(C.G.). Respondent No.4 has filed an election petition, before the Specified Officer i.e. respondent No.2, in which, the petitioner is appearing and responding. The respondent No.2 without following the procedure as laid down in Rule 11 of C.G. Panchayat Election Petition Rules, 1995 (In short 'Rules, 1995') and without framing any issue and without recording any evidence has passed the order dated 18.10.2021 directing recounting of the votes of the Sarpanch election. This order is totally illegal and against the provisions in the Rules, 1995. The respondent No.2 has acted beyond its jurisdiction. The prescribed authority has limited power as available under Rule 21 of the Rules, 1995.

3. Learned counsel for the respondent No.4 opposes the submissions and submits that the action of the respondent No.2 is within the criteria of law, therefore, the petition be dismissed and disposed off.
4. Learned State counsel appearing for respondents No.2 and 3 opposes the submissions made by the learned counsel for the petitioner.
5. Considered on the submissions. As there is order for recounting of the votes with respect to the Sarpanch election. Rule 11 of Rules, 1991 very clearly provides that specified officer shall have powers of Civil Court and the procedure to be adopted shall be as provided under the Code of Civil Procedure, which means the submissions of pleadings, framing of issues, recording of evidence etc.. No such procedure has been followed by the respondent No.2, before passing the order dated 18.10.2021.
6. After considering on the submissions, this petition is disposed off at motion stage. The order of the respondent No.2 dated 18.10.2021 is quashed. The respondent No.2 is directed to take up the proceeding in the election petition in accordance with the provisions as present under

Rule 11 of the Rules, 1995 and day to day procedure shall be taken up in the same until its completion, which has to be within the outer limit of 30 days from today.

7. With these observations, this petition stands disposed off.

Certified copy today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram