

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C).5508 of 2022

Pratap Kumar Jena

....

Petitioner(s)

Mr.S.K.Gajendra,
Sr.Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr.A.K.Parija, Advocate General,
Assisted by Mr. R.P.Mohapatra,
Addl.Govt. Advocate.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
25.02.2022**

Order No.

01.

1. Heard learned counsel appearing for the parties.
2. This writ petition involves the following prayer:

“In the circumstances it is most humbly prayed that your lordships graciously may be pleased to interfere in the matter and issue a Rule NISI in the nature of mandamus calling upon the Opp. Parties to show case as to why the arbitrary and illegal “Division of city into Wards” in respect of Ward No.44 of Badagada Village under Annexure-4 should not be struck down;

AND

Be pleased further to direct the Opp. Parties to maintain the geographical boundary and its compactness of Ward No.44 as it was prevalent in the BMC Corporator election of the year 2014 in the interest of justice and fair play;

AND

May be pleased to pass any other or further relief(s) or order(s) as the Hon’ble Court deems fit and proper;

AND

After hearing the Opp. Parties through their counsels, if the Opp. Parties fail to show cause or show insufficient or false cause, make the said RULE absolute and complete;

AND

For that the petitioner as in duty bound shall ever pray.”

3. Undisputedly the dispute involving the writ petition arose involving a notification at Annexure-3. Drawing attention of this Court to the Annexure-1, grievance of the petitioner dated 19.12.2021 as well as subsequent grievance of the petitioner in Annexure-5 dated 16.02.2022, it has been brought to the notice of this Court that in spite of such grievance being raised by the Petitioner-committee, there has been no consideration of the allegation before finalizing the issue involved herein. Matter relates to Municipal Corporation election, Bhubaneswar. Mr. Mohapatra, learned Additional Government Advocate appearing for the State giving reference to the time requirement in Annexure-3 particularly the time stipulation requiring for filing of objection and claim at least within ten days of the notification dated 07.01.2022, objected consideration of the representation either 19.12.2021 or 16.02.2022. One being filed not in terms of Annexure-3 and the other is well beyond the time stipulation.

Considering the rival contentions of the parties, this Court finds undisputedly the dispute involves election of the Municipal Corporation, Bhubaneswar based on a notification dated 07.01.2022 at Annexure-3 finds place at page 26 of the brief. Sub-paragraph-2 of the notification at page 26 of the brief reads as follows:

“Any objection or suggestion which may be received from any person interested in respect of the said draft notification on or before the date of expiry of the period of ten days from the date of publication of this notification will be considered. Objections or suggestions received after the said period shall not be taken into consideration.”

It appears, there is clear provision seeking objection or suggestion from any person interested in respect of the said draft notification at least before expiry of ten days period. This Court here looking to the claim of the petitioner on the basis of Annexure-1 and Annexure-5 finds Annexure-1 is a representation submitted on 19.12.2021 but not in terms of the claim for objection pursuant to notification at Annexure-3. Therefore, there is no scope for considering the prior application involving notification at Annexure-3. In the event petition was to pursue his objection remedy, nothing prevented the petitioner to at least raise his objection and or suggestion within the time stipulation. It is at this stage of the matter, taking into account the grievance of the petitioner at Annexure-5, this Court again finds for time stipulation in

Annexure-3, there is no scope for consideration any further objection or complain, as claimed vide Anenxure-5.

In the circumstance, this Court finds, there is no ground to entertain the writ petition at this stage. Consequently the writ petition stands dismissed at the stage of admission.

(Biswanath Rath)
Judge

Sks

