

IN THE HIGH COURT OF ORISSA AT CUTTACK

ELPET No.5 of 2019

Kailash Chandra Kulesika

Petitioner(s)

Mr.Bidyadhar Mishra, Sr. Advocate

- Versus-

Prabhu Jani & Ors.

.....

Opposite parties

Mr.S.P.Panda, AGA,

Mr.Milan Kanungo, Sr.Advocate.

Mr.Gopal Agarwal, Advocate

CORAM:

JUSTICE BISWANATH RATH

ORDER

05.01.2022

Order No.

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1. Mr.S.P.Panda, learned Additional Government Advocate producing a packet in Court today involving a bunch of records submitted that the competent authority has produced the records in terms of the order of this Court dated 23.11.2021. The envelop is opened and it is observed through production of record but in Xerox of the documents as per the index furnished therein a Compact Disc (C.D.) of the nomination scrutiny and counting is also placed on record.

2. Heard Mr.B.Mishra, learned Senior Counsel, for the petitioner, Mr. B. Mishra, learned senior counsel for the petitioner taking this Court to the date of order involved herein directing filing of evidence on affidavit

and production of such witnesses for their further examination in chief and also for cross-examination on the date fixed contended that since the date of order, there is constant attempt by Mr.Mishra, learned Senior Counsel to contact the party for the purpose indicated hereinabove, unfortunately there is no response from the party till now. This Court finds in the meantime one and half months has passed. This is an election dispute pending since 2019. No dispute trial delayed for COVID- 19 reason, as there was no possibility of physical hearing for long time. This Court observes, there is no cooperation of the election petitioner. This Court dismisses the election petition for non-cooperation of the election petitioner.

3. For wasting the Court's time in initiation of proceeding since 2019 and in between the Court has already spent lot of time on it at least on 18 dates and for keeping the respondents busy in discharging their role in the election dispute, this Court while dismissing the election case also imposes a cost of Rs.10,000/- (Rupees ten thousand) only to be deposited in the Red Cross Fund, Collector, Cuttack within a period of three weeks. Failure of deposit it is open to the competent authority to recover the same as public recovery.

4. For dismissal of the election petition, this Court finds no purpose to keep election records produced in Court today, which are returned to Mr.S.P.Panda, learned Additional government Advocate in Court today

itself.

5. Election Petition thus dismissed but however with cost of Rs.10,000/-(Rupees ten thousand).

Sks

(BISWANATH RATH)
JUDGE

