

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.29218 OF 2022

Pramila Barik

....

Petitioner

Mr.S.K.Pradhan, Adv.

-versus-

The Collector, Ganjam & ors.

....

Opposite Party(s)

Mr.S.Mishra, ASC

CORAM:

JUSTICE BISWANATH RATH

ORDER

9.11.2022

Order No.

01. 1. Heard learned counsel for the Parties.
2. The Writ Petition involves allowing of an Application under Order 16 Rule 6 of the Civil Procedure Code involving an election dispute. The present Writ Petition is at the instance of the elected candidate. The Application herein above was moved by the defeated candidate to call for the nomination paper as well as the affidavit filed in course of election.
3. Learned counsel for the Petitioner in reference to the provision under Section 37 of the Gram Panchayat Act submits that once the Court has ample power to call for such Record and in absence of any evidence to support such calling, this is not a stage in considering such application.
4. Considering the submission of the learned counsel for the Petitioner and looking to the nature of request involving the Election

Petition involved herein, further the pleading in Paragraphs-5 & 6 therein, this Court finds, there is sufficient pleading involving the material called for on the submission of the learned counsel for the Petitioner that once this document is called for and received by the Court, there may be avoiding of evidence to support the same, for the opinion of this Court, production of document, if any, may not stand as a proof on the claim of the Party calling such document, unless the Party has necessary pleading in the Election Petition and lead evidence to support such document and mark the document, if any, in the process of evidence, further with scope of cross-examination to the parties likely to be affected.

5. In the above circumstance and for clear pleading, this Court finds, there is no otherwise prejudice to the return candidate, the Petitioner herein, as there shall be providing of opportunity of cross-examination involving such material production even also including pleading in Paragraphs-5 & 6 and supporting evidence. It is in this view of the matter, this Court is not inclined to interfere with the impugned order.

6. The Writ Petition thus stands dismissed.

(Biswanath Rath)
Judge

M.K.Rout