

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.32902 OF 2022

Jugunu Nayak

....

Petitioner

Mr.A.P.Bose, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.S.Mishra, ASC
Mr.A.K.Mohanty, Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

5.12.2022

Order
No.

1. Heard learned counsel for the Parties.
2. On consent of the Parties, this matter is taken up for final hearing.
3. This case involves a serious allegation in conducting of election proceeding under Section 26 of the O.G.P. Act by the Collector, Kandhamal.
4. The winning candidate being aggrieved by the impugned order under Annexure-2 series alleges, there is no dispute that Section 26 proceeding may be initiated but law prescribes, disposal of such proceeding only after involving the Party likely to be suffering. It is further alleged, Section 26 proceeding has been closed without even involving the Petitioner and in passing an order

there is taking out of the result involving the Petitioner, the winning candidate.

5. There is no objection to such allegation by the learned counsel appearing for the contesting private O.P.7, who otherwise also submits, the Collector being satisfied with admission of matter ought to issue notice to the Parties likely to be affected and the disposal of the proceeding involved herein in not in the involvement of the Parties affected, the Petitioner herein.

6. Considering the rival contentions of the Parties and for there is no dispute at the Bar on the disposal of the Section 26 Proceeding without involvement of the Petitioner, the winning candidate, this Court interferes with the impugned order dated 28.10.2022, sets aside the same and remits the matter to the Collector, Kandhamal, Phulbani for recommencing the trial of the matter afresh from the stage of receiving the complaint. The Collector is also further directed to strictly follow the procedure in the disposal of Section 26 of the Proceeding. Since the matter is disposed of in involvement of both the Parties contesting, both the Parties are directed to appear before the Collector, Kandhamal, Phulbani with copy of this order on 13.12.2022. The Petitioner is also permitted to contest on the admission of the matter and if necessary, and to file his objection to the proceeding without any further delay.

7. The Writ Petition stands disposed of with interference with the impugned order with direction herein above.

(Biswanath Rath)
Judge

M.K.Rout

