



35

HIGH COURT OF CHHATTISGARH, BILASPUR

**CORAM: Hon'ble Shri Sunil Kumar Sinha &
Hon'ble Shri Radhe Shyam Sharma.JJ.**

W.A. No. 539 /2011

APPELLANT

Taburam Topa, S/o Milaram
Topa, aged about 42 years, R/o
Village Saver, Gram Panchayat
Saver, Tahsil Pakhanjore, Distt.
Utter Baster Kanker (C.G.).

VERSUS

RESPONDENTS

1. Smt. Subhadra Nareti, aged
about 33 years, W/o Dular Singh,
by Caste Gond, R/o Village
Saver, at present R/o Bande
Colony, Tahsil Pakhanjore, Distt.
Utter Baster Kanker (C.G.).
2. Smt. Manglibai W/o Krishna
Kumeti,
3. Madan Sori, S/o Mohan Sori,

No. 2 & 3 are R/o Village Saver,
Gram Panchayat Saver, Tahsil
Pakhanjore, Distt. Utter Baster
Kanker (C.G.).
4. Sub-Divisional Officer (Specified
Officer) Pakhanjore, Distt. Utter
Baster Kanker (C.G.).

**WRIT APPEAL UNDER SECTION 2 OF THE CHHATTISGARH HIGH
COURT (APPEAL TO DIVISION BENCH), ACT, 2006**

Appearance:

Mr. D.N. Prajapati, Advocate for the appellant.
Mr. Parag Kotecha, Advocate for respondent No.1.

ORAL ORDER
(30.11.2011)

SUNIL KUMAR SINHA.J.

Heard.

The appellant is returned candidate. He is Sarpanch of Village
Panchayat Saver, Tahsil- Pakhanjore, Distt. Utter Bastar Kanker
(C.G.).



The election of the appellant was called in question by respondent No.1 by filing an Election Petition under Section 122 of Panchayat Raj Adhiniyam 1993. The Election petition was dismissed by the Tribunal. The order of dismissal of the election petition by the Tribunal, was challenged in W.P.(C) No. 3513/2011 by respondent No.1. The Writ Court, after perusal of the records, found that without framing issues for settling the dispute, as required under the provisions of Chhattisgarh (Election Petitions Corrupt Practice & Disqualification For membership), Rule, 1995 the election petition was dismissed.

Looking to the non-compliance of provisions of the aforesaid rules, the Writ Court thought it better to set aside the order passed by the Election Tribunal and to direct the Tribunal to consider and decide the case afresh in accordance with law and on its own merits.

Mr. D.N. Prajapati, learned counsel for the appellant, has not disputed that the issues were not framed in the matter and the election petition was finally disposed of.

In many judgments, the High Court has held that the issues are required to be framed on disputed question of facts and law as per rule 11 of the aforesaid rule 1995.

In light of the above legal position, we do not find any infirmity or illegality in the impugned order passed by the Writ Court warranting interference in this intra-court appeal.

The appeal, therefore, is liable to be dismissed and is hereby dismissed summarily.

Sd/-
Sunil Kumar Sinha
Judge

Sd/-
Radhe Shyam Sharma
Judge