

W.P. No. 2673/2015

Kaluram Ahirwar

Vs.

Krishna Pal Singh

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31.07.2015

Shri B. B. Shukla, Advocate for the petitioner.

Shri Vishal Mishra, Deputy Advocate General.

Since a pure legal question is involved in the matter, with the consent, finally heard.

The petitioner filed an election petition under Section 122 of M.P. Panchayat Nirvachan Niyam, 1995, wherein he prayed for following relief:

“अतः प्रार्थना है कि याचिकाकर्ता की याचिका स्वीकार की जाकर अनावेदक का निर्वाचन दिनांक 05.02.2015 के ग्राम पंचायत माताभूदरा औरैन जिला गुना अनुसूचित जाति का मानते हुए किया गया है को अयोग्य घोषित किये जाने की आज्ञा प्रदान की जावे।”

This election petition is rejected by the specified authority on 04.04.2015 by holding that the petitioner has not impleaded all the nine persons, who contested the election. Hence, election petition is not tenable as per Rule 4 of The Madhya Pradesh Panchayats (Election Petitions, Corrupt Practices and Disqualification For Membership) Rules, 1995 (for brevity the “Rules”).

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It is apt to quote Rule 4 of the Rules which reads as under:

“4. Parties to the petition.-

Where the petitioner in addition to claiming a declaration that the election, of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected he shall join as respondents to his petition all the contesting candidates at the election”

A plain reading of Rule 4 makes it clear that all the persons who contested the election needs to be joined as respondents when the election petitioner in addition to claim a declaration that election be declared as void, claims further declaration that he himself or any other candidate has been duly elected. In the present case, admittedly petitioner has not prayed any such relief. He simply prayed for setting aside the election of returned candidate. Thus, the specified authority has erroneously applied Rule 4 in the

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facts and circumstances of the case.

Resultantly, the order dated 04.04.2015 is set aside. The matter is remitted back to the said authority to decide the election petition in accordance with law.

Petition is allowed to the extent indicated above.

(alok)

(Sujoy Paul)
Judge