

**HIGH COURT OF MADHYA PRADESH; BENCH AT INDORE**

**Writ Petition No.23560 of 2017.**

(Kavita w/o Shri Kishan and others v/s State of M.P. and others)

**Indore, Dated : 28.12.2017:-**

Shri Vivek Dalal, learned counsel for the petitioners.

Shri Rohit Mangal, learned Govt. Advocate for the Respondent Nos.1 to 4/State, on advance copy.

Shri O.P.Solanki, learned counsel for the Respondent No.5.

**IA No.18893/2017**, an application for urgent hearing and **IA No.18742/2017**, an application for urgent hearing during Winter Vacation considered and allowed.

Heard on the question of admission.

**O R D E R**

**THE** petitioners have filed the present petition being aggrieved by order dated 12.12.2017 passed by the Respondent No.2 (Appellate Authority) by which their appeal has been dismissed and order of Registration Officer-cum-Sub Divisional Officer dated 31.10.2017 has been affirmed.

[2] The petitioners are residents of Gram Panchayat Rampuriya Khurd, Tehsil Ambedkar Nagar, Mhow, District Indore. The election of Gram Panchayat has been notified under the provisions of M. P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 [in brief “the Adhiniyam of 1993”] and M. P. Panchayat Nirvachan Niyam, 1995 [in brief “the Niyam of 1995”]. Under Rule 9 and 10 of the Niyam of 1995, the voter list was published on 31.10.2017. The names of the petitioners are found place in the aforesaid voter list. The Respondent No.5 has submitted an objection in respect of the inclusion of the petitioners' name in the voter list. According to the petitioners the Respondent No.3 (Registration Officer-cum-Sub Divisional Officer) has passed the order behind their back and recorded the

finding that they are not residents of Gram Panchayat Rampuriya Khurd, Tehsil Ambedkar Nagar, Mhow, District Indore hence directed for deletion of their names. Being aggrieved by the aforesaid order, the petitioners preferred an appeal before the Collector and District Election Officer. Vide order dated 12.12.2017 the Collector has dismissed their appeal and upheld the order of Registration Officer-cum-Sub Divisional Officer. According to the petitioners, they are permanent residents of Gram Panchayat Rampuriya Khurd, Tehsil Ambedkar Nagar, Mhow, District Indore, therefore, their names have wrongly directed to be deleted from the voter list. Before passing of the order, opportunity of hearing was not granted to the petitioners. Therefore, the order is illegal.

[3] Shri Rohit Mangal, learned Govt. Advocate appearing on behalf of the Respondent Nos.1 to 4/State submits that the election programme for General/By-elections year 2017 for Panchayats have already been notified vide order dated 25.12.2017 by the M. P. State Election Commission. Therefore, now at this stage no relief can be granted to the petitioners. The voter list has attained finality and there is a specific bar under the Constitution of India for interference by the High court in the election process. Hence, prayed for dismissal of the writ petition.

[4] The Chapter IV of the Niyam of 1995 provides preparation of voter list. Rule 10 of the Niyam 1995 provides publication of voter's list and institution of claims and objections. Any person whose name is not entered in the voter list may submit his claim and objection and any person is also entitled to file an objection in respect of his name or name of other persons included in the list. Rule 12 provides the disposal of claims and objections. As per sub-rule (5) of Rule 12, any

person aggrieved by the decision of the Registration Officer may prefer an appeal to the Appellate Authority within five days. The decision of the appellate authority shall be final and as per the proviso no amendment shall be carried out in the voters' list after the last date and the time fixed for making nominations in the notice issued under Rule 28 and before the completion of election. Therefore, after the order of appellate authority, the voters list attains finality and no amendment in it is permissible. The amendment in the voter list is possible only when the appellate authority directs. The Apex Court in the case of **Election Commission of India v/s Ashok Kumar** [AIR 2000 SC 2977] has held that the election proceedings commencing from the date of notification of the election till the date of declaration of result and the judicial remedy has to be postponed till after the completing of proceedings in elections. Para 32 (1) of the order is reproduced below :-

**“(1) If an election, (the term 'election' being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.”**

**[5]** In view of the above, at this stage the interference in election process is not permissible in this petition. Hence, admission is denied. The petitioners are having other remedy to approach competent forum under the Adhiniyam of 1993 and under the Niyam of 1995.

**[6]** The petition is accordingly dismissed.

**[ VIVEK RUSIA ]  
VAC. JUDGE**

(AKS)