

Budhram Vs. Sub-divisional Officer (Revenue) and ors.

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Court : Chhattisgarh

Decided On : Jun-23-2003

Reported in : 2003(4)MPHT1(CG)

Judge : P.C. Naik, J.

Acts : Chhattisgarh Panchayat Raj Adhiniyam, 1993 - Sections 17 and 122; Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 - Rule 22

Appeal No. : Writ Petition No. 44/2000

Appellant : Budhram

Respondent : Sub-divisional Officer (Revenue) and ors.

Advocate for Def. : Ranbir Singh, Govt. Adv. for Respondent Nos. 1 and 7,; B.D. Guru, Adv. for Respondent No. 2

Advocate for Pet/Ap. : Ashish Shrivastava, Adv.

Judgement :

ORDER

P.C. Naik, J.

1. Heard

2. In the election of Gram Panchayat, Puchheli held on 1-2-2000 the petitioner had contested for the post of Sarpanch and was declared elected. He secured 251 votes. The respondent Nos. 2 and 3 had also contested for the said post, but lost. Subsequent thereto, an election petition was filed by the respondent No. 2 challenging the election of the petitioner on the ground that the illegal acceptance of nomination of respondent No. 3 had materially affected the election. It was also alleged that as the petitioner had indulged in corrupt practice, his election was liable to be set aside.

3. After examining the matter the Election Tribunal vide its order dated 14-11-2000 allowed the election petition on the ground of illegal acceptance of the nomination paper of respondent No. 3 who belonged to Ghasiya Community and not to Back Ward Community for which the post was reserved. However, the challenge to the election of the writ petitioner on the ground of corrupt practice was accepted and repelled. Aggrieved with the setting aside of his election, the petitioner has approached this Court for relief.

4. Considering the nature of the dispute, this Court had called upon the State Counsel to produce the record which has been done. Shri K.S.Mandavi, who is a Returning officer is also present in person. On being asked, learned Counsel, on the basis of the record, submitted that the petitioner who was elected had secured 251 votes, respondent No. 2 (election petitioner) had secured 175 votes and the respondent No. 3 had secured 66 votes. Thus, assuming that the nomination of respondent No. 3 had been rejected and all the 66 votes polled by him had been cast in favour of the election petitioner, i.e., respondent No. 2 the total number of votes polled by him would be 241 votes (175 + 66) which is less than number of votes (251) secured by the petitioner. This position is not disputed by the learned Counsel.

5. In the above view of the matter, the Court is of the opinion that considering the fact that respondent No. 3 has not been declared elected, i.e., he has lost election, wrongful acceptance of nomination can not be said to have materially effected the election. Thus the order impugned dated 14-11-2000 (Annexure P-5) can not be sustained and is accordingly quashed. Accordingly, the petition succeeds.

6. There shall be no order as to costs.
7. The original record be returned to the State.

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