



2025:CGHC:21565-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPPIL No. 52 of 2025**

- 1** - Bijendra Kumar (In Person) S/o Late Shri Dayashankar Aged About 47 Years R/o Village - Jilda, Block - Khadagwa, Anusuchit Area District - Koriya (C.G.)
- 2** - Parasnath S/o Phoolsay Aged About 44 Years R/o Village - Pondi, Block - Khadagwa, Anusuchit Area District - Koriya (C.G.)
- 3** - Shivkumar S/o Surajprasad Aged About 42 Years R/o Village - Kasra, Block - Baikunthpur, Anusuchit Area District - Koriya (C.G.)
- 4** - Rampratap S/o Shivnarayan Aged About 50 Years R/o Village - Jilda, Block - Khadagwa, Anusuchit Area District - Koriya (C.G.)
- 5** - Rajkumar Yadav (In Person) S/o J.P. Yadav Aged About 72 Years R/o Kenapara, Baikunthpur, Anusuchit Area District - Koriya (C.G.)

... Petitioners**versus**

- 1** - State of Chhattisgarh Evam Rajya Sarkar Ke Adhin Varishtha Duty Paddhari Sangathan/ Samanya Prashasan Vibhag, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur (C.G.)
- 2** - Union of India Vidhi Evam Nyay Mantralaya, Vidhai Vibhag New Delhi Evam Rajya Sarkar Ke Adhin Vidhi Evam Vidhai Karya Vibhag, Indravati Bhawan, Naya Raipur, Varishtha Duty Paddhari Vyakti Chhattisgarh Rajya
- 3** - Chhattisgarh State Election Commission Shri Ajay Singh, Nirvacan Bhawan, Sector-19, North Block, Nawa Raipur, Atal Nagar, Nawa Raipur, Chhattisgarh, Evam Mukhya Nirvachan Padadhikari

Chhattisgarh, D.K.S. Bhawan, Purana Mantralaya Parisar, Raipur, Chhattisgarh

4 - Collector Cum District Election Officer District - Koriya, Ke Pad Par Padasth Anusuchit Area Surguja Sambhag, Chhattisgarh Ke Jilo Mein

5 - First Appellate Authority Shri Sanjay Vishwakarma, Controller, Rajbhawan, Raipur, Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Petitioners	:	Mr. Rajkumar Yadav, in person
For Respondents No.1 and 4	:	Mr. Yashwant Singh Thakur, Additional Advocate General
For Respondent No.2	:	Mr. Ramakant Mishra, Deputy Solicitor General
For Respondent No.3	:	Mr. Ventakesh Pandey, Advocate holding brief of Mr. R.S. Marhas, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Arvind Kumar Verma, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

09.05.2025

1. Heard Mr. Rajkumar Yadav, petitioner in person. Also heard Mr. Yashwant Singh Thakur, learned Additional Advocate General appearing for the State/respondents No.1 and 4, Mr. Ramakant Mishra, Deputy Solicitor General appearing for respondent No.2 as well as Mr. Ventakesh Pandey, learned counsel holding brief of Mr. R.S. Marhas, learned counsel appearing for respondent No.3.
2. By way of this writ petition styled as 'Public Interest Litigation', the petitioners have prayed for following relief:-

“10.1 छत्तीसगढ़ राज्य निर्वाचन आयोग एवं मुख्य निर्वाचन पदाधिकारियों द्वारा अनुसूचित क्षेत्रों एवं जनजाति क्षेत्रों में कराये गये निर्वाचन को भारत के राज्य क्षेत्र के संविधान अनुच्छेद 243(ड.) एवं 243 ('य' ग'), पंचायत राज अधिनियम के धारा 343 (ड) का उल्लंघन करने के कारण असंवैधानिक घोषित किया जावे।

10.2 छत्तीसगढ़ राज्य के अनुसूचित एवं जनजाति क्षेत्रों में हुये निर्वाचन को रद्द करने एवं माननीय राज्यपाल के प्राधिकार के अनुपालन में नये निर्वाचन कराने के लिए निर्वाचन आयोग एवं मुख्य निर्वाचन पदाधिकारियों को निर्देश देने हेतु परमादेश रिट जारी किया जावे।

10.3 संयुक्त राज्य मध्यप्रदेश के अनुसूचित क्षेत्रों को मूल रूप में अनुसूचित क्षेत्र भाग 'क' राज्य आदेश 1950 (सा.आ.-9) दिनांक 23.01.1950 के तहत विनिर्दिष्ट किये गये अनुसूचित क्षेत्र जनजाति क्षेत्रों के भू-भाग में स्थित क्षेत्रों में अनाधिकृत भूमि अधिग्रहण / अंतरण को अमान्य घोषित किया जावे।

10.4 छत्तीसगढ़ सरकार से नीतिकृत भूमि अधिग्रहण से "उपसर्ग" अनुसूचित क्षेत्र हटाने और भूमि आदिवासी जनजातियों / समुदाय को वापस करने का निर्देश दिया जावे।

10.5 छत्तीसगढ़ सरकार एवं राज्य चुनाव आयोग, मुख्य निर्वाचन पदाधिकारियों को निर्देश दिया जाये कि अनुसूचित क्षेत्र एवं जनजाति जाति क्षेत्रों में राज्य का कानून लागू करने से पहले राजपत्र के अधिकारित राजपत्र मेमो दर्शित लोक अधिसूचना/आदेश की पूर्व मंजूरी सुनिश्चित करें।

10.6 राज्य सरकार द्वारा जारी विलुप्त अनुसूचित शब्द राजपत्र के परिपालन में अनुसूचित जनजाति क्षेत्रों में विस्तारित संगठन / विभाग को अमान्य घोषित किया जावे।

10.7 वरिष्ठ ड्यूटी पदधारियों/ राजस्व बोर्ड के नेतृत्व में

संचालित संगठन / विभाग के पदाधिकारियों द्वारा अनुसूचित क्षेत्र एवं जनजाति क्षेत्र के व्यक्तियों के नाम पर जारी एस.टी., एस.सी. ओ.बी.सी. के प्रमाण पत्रों को अमान्य घोषित किया जावे।

10.8 सूचना के अधिकार के तहत मांगी गई जानकारी दर्शित जनसूचना आवेदन अनुसार दिलायी जावे। जानकारी न देने पर जनसूचना आवेदन/अपील आवेदन के साथ शूल्क/कर के रूप में दी गई धनराशि भारत सरकार के करेंसी जो वर्तमान में समय में एक रुपये के मानक मूल्य अनुसार वापस दिलाने के बाबत परमादेश जारी किया जावे।

10.9 हम 'क' राज्य क्षेत्र के निवासियों को राजभाष अधिनियम 1963 के प्रावधानों के तहत बनाये गये राजभाष नियम 1976 नियम 12 की धारा 3(3) के तहत सुनवाई करने एवं पक्ष रखने का अनुमति दी जावे।”

3. Basically, the petitioner has challenged in this public interest litigation that the Panchayat Elections cannot be held in the Scheduled Area under Article 243 of the Constitution of India along with other reliefs mentioned in the petition.
4. Mr. Yashwant Singh Thakur, learned Additional Advocate General submits that Schedule-V of the Constitution of India has given a power to the State to conduct Panchayat elections in the Scheduled Areas and in the State of Chhattisgarh, there is no such notification for banning elections in the Scheduled Areas.
5. Schedule-V of the Constitution of India reproduced below for easy reference:-

“5. Law applicable to Schedule Areas.- (1)
Notwithstanding anything in this Constitution

*the Governor [***] may by public notification direct that any particular Act of Parliament or of the Legislative of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.*

*(2) The Governor [***] may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.*

In particular and without prejudice to the generality of the foregoing power, such regulations may—

(a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;

(b) regulate the allotment of land to members of the Scheduled Tribes in such area;

(c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

*(3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor [***] may repeal or*

amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

*(5) No regulation shall be made under this paragraph unless the Governor [***] making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.”*

6. Having considered the rival submissions of the learned counsel for the parties and gone through the record, it is relevant to mention that it is the duty of this Court to ensure that there is no personal gain, private motive and oblique notice behind filing of PIL. In order to preserve the purity and sanctity of the PIL, the Courts must encourage genuine and bonafide PIL and effectively discourage and curb the PIL filed for extraneous considerations.
7. The Courts should, prima facie, verify the credentials of the petitioner before entertaining a PIL. It is also well settled that the Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation. The Courts should ensure the jurisdiction in public interest is

invoked for genuine purposes by persons who have bona fide credentials and who do not seek to espouse or pursue any extraneous object. Otherwise, the jurisdiction in public interest can become a source of misuse by private persons seeking to pursue their own vested interests.

8. A Division Bench of the Allahabad High Court, in the case of ***Gurmet Singh Soni Vs. State of U.P. and others : 2021 (5) ADJ 409***, noticing the decision of the Supreme Court in ***State of Uttaranchal Vs. Balwant Singh Chaufal & Ors., 2010 AIR SCW 1029*** and other judgments of the Apex Court on the issue, has dismissed the public interest litigation.
9. The Courts cannot allow its process to be abused for oblique purposes, as was observed by the Supreme Court Court in ***Ashok Kumar Pandey v. State of West Bengal, (2004) 3 SCC 349***. In ***Balwant Singh Chaufal*** (supra) the Hon'ble Supreme Court had discussed the three stages of a PIL which has been discussed above. The Supreme Court, in ***Balwant Singh Chaufal*** (supra) states as to how this important jurisdiction, i.e., PIL has been abused at Para 143 by observing as under:-

“143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We

think time has come when genuine and bonafide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.”

10. The Supreme Court, in ***Holicow Pictures (P) Ltd. Vs. Prem Chand Mishra, (2007) 14 SCC 281*** which has relied ***Janata Dal Vs. H.S. Chowdhary, (1992) 4 SCC 305***, observed as under:-

“12. It is depressing to note that on account of such trumpery proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to

death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters — government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenu expecting their release from the detention orders, etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, break the queue muffing their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.”

11. The Hon'ble Supreme Court, in ***Gurpal Singh Vs. State of Punjab & Others, (2005) 5 SCC 136***, the appointment of the

appellant/petitioner as Auction Recorder was challenged. The Court held that the scope of entertaining a petition styled as a public interest litigation and locus standi of the petitioner particularly in matters involving service of an employee has been examined by this Court in various cases. The Court observed that before entertaining the petition, the Court must be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. The court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions.

- 12.** Considering the matter in its entirety and after considering the submissions made by learned counsel appearing for the State, this Court is of the opinion that in the State of Chhattisgarh, there is no ban on conduct of Panchayat elections in the Scheduled Areas as there is no notification of the Governor for prohibition of the same. Even otherwise, the pleadings made in this petition as vague and sketchy as well as nothing can be made out as to what the actual grievance of the petitioners as they have clubbed various issues in one single petition, which cannot be adjudicated and further, no reasons or grounds have been assigned as to why

such prayers should be acceded to. Except to the fact that the petitioners as agriculturists, nothing has been stated about their credentials.

- 13.** In the result, we do not find any good ground to invoke the jurisdiction in the public interest under Article 226 of the Constitution. The instant Public Interest Litigation is, accordingly, dismissed. The security amount so deposited by the petitioners shall stand forfeited.

Sd/-
(Arvind Kumar Verma)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu