

(2022) 07 CHH CK 0032
In the Chhattisgarh High Court
Case No : Writ Appeal No. 114 Of 2021

Ajeet Verma

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 11-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 12

Citation : (2022) 07 CHH CK 0032

Hon'ble Judges : Arup Kumar Goswami, CJ; Parth Prateem Sahu , J

Bench : Division Bench

Advocate : Uttam Pandey, H.S. Ahluwalia, Aman Sharma

Final Decision : Dismissed

Judgement

1. Heard Mr. Uttam Pandey, learned counsel for the appellants. Also heard Mr. H.S. Ahluwalia, learned Deputy Advocate General, appearing for respondents No. 1 to 3 and Mr. Aman Sharma, learned counsel, appearing for respondent No. 4.
2. This appeal is preferred against the order dated 18.03.2021 passed by the learned Single Judge in Writ Petition (C) No. 1539 of 2021, dismissing the writ petition on the ground that it has raised disputed question of facts and that the Court could not go into a roving enquiry to find out the membership of the Zila Aushadhi Vikereta Sangh (for short, 'the Sangh').
3. In the writ petition, it is stated that the Sangh was registered on 23.08.2018 and in the by-laws, which is approved by respondent No. 3, provisions have been made for enrolling members, eligibility of the members etc. By-laws also provide that the tenure of the management committee would be for a period of 3 years, which is extendable by maximum period of 6 months.
4. The proximate cause for filing the writ petition was a notice dated 03.03.2021 by which election to the Sangh was proposed to be held on 04.04.2021.
5. In the writ petition, it is stated that receipt book Nos. 30, 41 and 42 were

missing and members, who had taken membership in Sl.Nos. 1726 to 1750, Sl.Nos. 2001 to 2025 and Sl.Nos. 2026 to 2050, were asked to submit their membership by 10.03.2021 to enable them to cast their votes and the aforesaid fact goes to show that voter list is not complete. It is also pleaded that preliminary voter list had not been published and the membership is also sought to be granted without the approval of the management committee. It is further pleaded that the process initiated for holding the election is illegal and the same cannot be sustained.

6. In the reply-affidavit filed by the respondents No. 2 to 4, it is stated that the Sangh is not covered under the definition of Article 12 of the Constitution of India and as such, no writ lies against the Sangh. It is also pleaded that the Sangh has not been impleaded as respondent and respondent No. 4, Secretary of the Sangh alone could not have been sued in the writ petition. It is also stated that requisite steps had been taken in accordance with law for holding the election. It is further stated that the petitioners No. 1 & 2 had submitted their nomination for the post of Organization Secretary and Secretary, respectively.

7. In the rejoinder-affidavit filed, it is stated by the petitioners that the respondent No. 4 may not be covered under Article 12 of the Constitution of India, but petition has been filed not only against respondent No. 4, but against respondents No. 2 & 3 also and therefore, the writ petition is maintainable.

8. Mr. Pandey has submitted that the petitioners had filed a representation before the respondent No.2, but the same was not considered by him. He has drawn our attention to Annexure P/9 in this context.

9. A perusal of the representation would go to show that the same was submitted on 12.03.2021, whereas the writ petition was filed on 4. 03.2021.

10. The whole grievance is articulated against the Sangh. The Sangh is not a party respondent and only the Secretary of the Sangh has been made a respondent. The cause of action for filing the writ petition has entirely arisen because of issuance of the election notice issued by the Sangh, and therefore, we are of the considered opinion that the writ petition itself is not maintainable. That apart, as observed by the learned Single Judge, the petition involves disputed question of facts.

11. In that view of the matter, we find no good reason to interfere with the order of the learned Single Judge and accordingly, the writ appeal is dismissed. We, however, hasten to add that we have expressed no opinion on merits of the case. The petitioners may seek remedy in accordance with law, if so advised.

12. No cost.