
(2014) 12 RAJ CK 0083

In the Rajasthan High Court

Case No : Civil MiscWrit Petition No. 7060/2012

Ram Niwas Saini

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 03-12-2014

Acts Referred:

Citation : (2015) 1 WLN 449

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Gayatri Rathore, Advocates for the Appellant; Manu Bhargava, Government Counsel, Advocates for the Respondent

Judgement

Mohammad Rafiq, J.—This writ petition has been filed against the notice/letter dt. 29.3.2012 issued by Sub-Divisional Officer pursuant to letter of District Collector (Panchayat), District Jaipur dt. 5.3.2012 whereby petitioner was asked to remain present on 13.4.2012 at 10.00 AM and file his reply along with evidence regarding the complaint filed against him before the District Collector by one Shri Krishna Kumar to the effect that petitioner has, in fact, four children after 27.11.1995, but in the nomination form he has concealed this fact and, therefore, he may be declared disqualified and removed from the post of Sarpanch, Gram Panchayat Ramsinghpura. Earlier an election petition was filed by one Ramji Lal Saini raising the aforesaid issue, but later on the application of said Ramji Lal that he does want to pursue the matter further on the basis of a compromise entered into between the parties, the same was dismissed as not pressed. The Larger Bench by majority decision in Smt. Sameera Bono v. State of Raj. & Ors., 2007 (2) WLC (Raj.) 526 held that a pre-election disqualification can be adjudicated only in an election petition before the District Judge under Sec. 43 of the Act read with Rule 80 of the Election Rules and cannot be determined by the competent authority under Rule 23 of the Rajasthan Panchayati Raj (Election) Rules, 1994. Petitioner cannot be therefore proceeded against in administrative enquiry for his removal, which can be done only by way

of an election petition.

2. Shri Manu Bhargava, learned Government Counsel could not justify his opposition of writ petition in the face of the aforesaid judgment of the Larger Bench. In the result, writ petition is allowed. The notices dt. 05.03.2012 and 29.3.2012 are quashed and set-aside.