
(2012) 09 MP CK 0289

In the Madhya Pradesh High Court

Case No : Writ Petition No. 13144 of 2012

Smt. Sharmila Bai Jamre

APPELLANT

Vs

State of MP and Others

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Citation : (2012) 09 MP CK 0289

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : Pradeep Naveriya, for the Appellant; V.P. Tiwari, Learned G.A. for the State and Shri Sushil Mishra for Caveator/Smt. Ranjana Sawankar, for the Respondent

Judgement

R.S. Jha, Judge

1. The petitioner has filed this petition being aggrieved by order dated 07.08.2012 passed the respondent No. 2, the Commissioner, Jabalpur Division Jabalpur whereby without taking into consideration the issues raised by the petitioner, the circular of the State Government dated 15.12.2003 regarding non holding of the election in places where there is an interim order passed by the appellate authority and other issues, the matter has been sent back to the Collector only on the ground that the election of the Gram Panchayat has subsequently been notified. It is submitted by the Learned Counsel for the petitioner that the aforesaid order passed by the respondent No. 2 is contrary to law as the petitioner's revision against the order of her removal as the Sarpanch of Gram Panchayat Jamdi, Tahsil and Janpad Panchayat Kiranpur District Balaghat was pending before the authority in which there was an interim order passed by the Commissioner himself and therefore, no election could either have been notified or could have been held without decision in the pending matter. It is further submitted that even otherwise, as a consequence of the dismissal of the revision, the Sub Divisional Officer is required to decide the matter on merits in view of the order of the Collector in appeal which has been upheld by the

Commissioner, therefore, till a decision on merits is not taken by the S.D.O. the elections or any interim arrangement for the post of Sarpanch cannot be made.

2. The Learned Counsel entering appearance on caveat on behalf of the caveator/ Smt. Ranjana Sawankar, who was the complainant on whose complaint the petitioner was removed, submits that the elections of the Gram Panchayat have been held and the result thereof has been withheld in view of the interim stay granted by the Commissioner, and therefore, in view of the aforesaid, the petition filed by the petitioner deserves to be dismissed. It is further submitted that even otherwise, in view of the decisions of this Court in the case of Abdul Hasan Qureshi and Smt. Rani Chandra Vs. State of M.P. and Others, and Ramkinkar Vishwakarma Vs. State of M.P. and Others, , the appropriate remedy of the petitioner is to approach the State Government by filing a second revision and therefore, the petition filed by the petitioner be dismissed.

3. Having heard the Learned Counsel for the parties and looking to the facts and circumstances of the case as well as decisions of this Court, as the availability of an alternative statutory efficacious remedy to the petitioner is undisputed, the petition filed by the petitioner is disposed of with liberty to the petitioner to assail the impugned order dated 07.08.2012 passed by the Commissioner, Jabalpur Division Jabalpur by taking up proceedings in accordance with the rules before the State Government.

4. It is further observed that in case the petitioner takes up the aforesaid proceedings within 15 days along with a copy of the order passed today and a copy of the petition as well as an application seeking stay, the operation of the impugned order dated 07.08.2012 passed by the Commissioner, Jabalpur, Division Jabalpur shall remain stayed and status quo, as it exists today shall be maintained by the parties till orders on the application for interim relief are passed by the second revisional authority.

5. With the aforesaid liberty/observations, the petition filed by the petitioner stands disposed of. C.C. as per rules.