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WP-29611-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 11th OF FEBRUARY, 2025WRIT PETITION No. 29611 of 2024*SANJAY MALIWAL**Versus**KAVITA THAKUR AND OTHERS*

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Appearance:

Shri Abhinav Dhanodkar - Advocate for the petitioner.

Shri Prashant Rajput - Advocate for the respondent No.1.

Shri Sudarshan Joshi - Government Advocate for the State.

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ORDER

By this petition preferred under Article 226 of the Constitution of India, the petitioner has challenged the order dated 26.07.2024 and 11.09.2024 passed by the Sub Divisional Officer, Pithampur, District Dhar, respondent No.5, whereby his right to produce witnesses in support of his case has been closed.

02. From the proceedings of the case, it is observed that respondent No.1 has filed an Election Petition before respondent No.5 questioning the election of the petitioner. In those proceedings, respondent No.1 has already led her evidence and has closed the same. Thereafter, the case was fixed for recording of petitioner's evidence. The petitioner had filed list of 17 witnesses and summons have been served upon all of them. Three out of the witnesses are Government officials whereas remaining 14 are private



individuals. The impugned orders have been passed by respondent No.5 closing the right of the petitioner to lead evidence.

03. From perusal of the record, it is observed that there have been various proceedings which cannot be reconciled with each other. At one place it appears that the petitioner has been negligent in examination of his witnesses and on the other, it appears that respondent No.5 has not carried out proceedings in a judicial manner.

04. Be that as it may, in order to do complete justice between the parties and to ensure that the case is decided after affording full opportunity to the petitioner to adduce evidence, it is directed that the petitioner shall appear along with all the private individuals who are his witnesses before respondent No.5 between 25.02.2025 and 01.03.2025. Whichever witness appears he would be examined and cross-examined. In case the witness does not appear, then no further opportunity for his examination shall be granted and if he is not cross-examined by respondent No.1, then no further opportunity for cross-examination shall be granted. Respondent No.5 shall however issue fresh summons to the three official witnesses who shall be examined and cross-examined on the date they so appear before respondent No.5. In case they are not examined by the petitioner on the date they appear, no further opportunity for their examination shall be granted. In view of the aforesaid directions, the impugned orders stand modified accordingly.

05. The order-sheets of respondent No.5 are handwritten and are absolutely illegible. It is very difficult to make out even the words which have been written therein. The proceedings before respondent No.5 are



judicial proceedings which are subject to scrutiny by the higher authority. However, it is apparent that they are being proceeded with in a very casual manner by respondent No.5. Even for the purpose of this petition, it is very difficult to read the impugned order. Respondent No.5 is hence directed not to treat the proceedings so casually and to take the same in proper earnest and to ensure that the order-sheets which are recorded in the case are legible.

With the aforesaid directions, the petition stands disposed off.

(PRANAY VERMA)
JUDGE

Shilpa