

**IN THE HIGH COURT OF MADHYA
PRADESH**

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 13th OF SEPTEMBER, 2023

WRIT PETITION No. 13777 of 2023

BETWEEN:-

**RAMESH BHABOR S/O KHIMAJI BHABOR,
AGED ABOUT 55 YEARS, OCCUPATION:
BUSINESS AND SOCIAL WORKER R/O 25
PATEL FALIYA VILLAGE BORWA TEHSIL
THANDLA (MADHYA PRADESH)**

....PETITIONER

(BY SHRI JAYESH GURNANI, ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH CHIEF
SECRETARY VALLABH BHAWAN BHOPAL
(MADHYA PRADESH)**
- 2. SUB DIVISIONAL OFFICER AND
PRESCRIBED OFFICER SUB DIVISION
THANDALA DISTRICT JHABUA (MADHYA
PRADESH)**
- 3. CHATAR SINGH KHOKHAR VILLAGE
KHOKHAR KHANDAN POST MAAL FALIYA
BLOCK THANDLA DISTRICT JHABUA
(MADHYA PRADESH)**
- 4. GOPAL DAMOR VILLAGE KHOKHAR
KHANDAN POST BARIYA FALIYA BLOCK
THANDLA DISTRICT JHABUA (MADHYA
PRADESH)**

5. KALAA KHOKHAR VILLAGE KHOKHAR KHANDAN NEAR NALWAYA FALIYA BLOCK THANDLA DISTRICT JHABUA (MADHYA PRADESH)
6. WAHADIYA MAINDA VILLAGE KHOKHAR KHANDAN NEAR GARWAL FALIYA BLOCK THANDLA DISTRICT JHABUA (MADHYA PRADESH)
7. MUKESH BHURIA VILLAGE BORWA BHURIYA FALIYA BLOCK THANDLA DISTRICT JHABUA (MADHYA PRADESH)
8. RETURNING OFFICER (PANCHAYAT) POLLING STATION NO. 122 WARD NO. 1 TO 6 GRAM PANCHAYAT KHOKHAR KHANDAN BLOCK THANDLA DISTRICT JHABUA (MADHYA PRADESH)
9. RETURNING OFFICER (PANCHAYAT) POLLING STATION NO. 123, WARD NO. 7 TO 10 GRAM PANCHAYAT KHOKHAR KHANDAN BLOCK THANDLA DISTRICT JHABUA (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI VAIBHAV BHAGWAT, G.A.)

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This petition coming on for admission this day, the court passed the following:

ORDER

Heard finally, with the consent of the parties.

2] This petition has been filed by the petitioner under Article 226 of the Constitution of India against the order dated 09.05.2023, passed by respondent No.2, Sub-Divisional Officer whereby, the election petition filed by the petitioner under Section 122 of The

Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 against the election of Respondent no.3, on the post of Sarpanch of Gram Panchayat Khokhar Khandan, Jhabua, has been rejected.

3] Counsel for the petitioner, at the outset, has submitted that the aforesaid election petition has been decided without framing any issues and thus, it is submitted that the provisions as prescribed under the M.P. Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 have not been followed, Rule 11 of which clearly provides that the election petition shall be governed by the provisions of CPC.

4] Counsel has also drawn the attention of this Court to the proceedings of the Election Tribunal wherein, the issues have not been framed.

5] The aforesaid factual aspect has not been disputed by the counsel for the respondents, however, it is submitted that the petitioner was given as many as ten opportunities to lead evidence, but this objection was never raised by the petitioner in the aforesaid proceedings, that issues have not been framed.

6] Be that as it may, on perusal of the impugned order it is apparent that the issues have not been framed. In such circumstances, it cannot be said that the election petition has been decided in accordance with law, as it clearly violates the principles of natural justice as the framing of issue is also an important aspect of the case, on the basis of which only the evidence is led by the parties and appreciated by the Trial Court.

7] In such circumstances, the impugned order cannot be sustained in the eyes of law, and is hereby set aside. The matter is remanded back to the Election Tribunal to proceed further in accordance with law, after framing issues.

With the aforesaid directions, the petition stands **disposed of**.

(SUBODH ABHYANKAR)
JUDGE

Bahar