



AMITY UNIVERSITY

MADHYA PRADESH

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“AUMP National Moot Court Competition 2017”

Moot Proposition

Central Province is a State of Indica, a Federal Country of South Asia having a long history of democracy up to Panchayat level. All laws and rules of Central Province are in resemblance of State of Madhya Pradesh, whereas the Constitution and Laws of Indica are similar to India.

Rupa Manjhi and Arti Manjhi are tribals of Manjhi Community, (resident of District Gabana, Central Province), which is considered a Scheduled Tribe as per entry 29 of the substituted list of Schedule Tribes for the State of Central Province vide “The Schedule Castes and Scheduled Tribes Orders (Amendment) Act 1976 (108 of 1976)”.

Sub Divisional Officer, District Gabana of Central Province issued Permanent Caste Certificates to Rupa Manjhi and Arti Manjhi vide certificate dated 19/6/2002 bearing case no. 748/2001-2002 and certificate dated 27/4/2003 bearing case no. 127/2003-2004 respectively.

Both were married at village Teekula, Tahsil & District Sialpur, Central Province and after marriage, they have been residing with their respective husbands at their matrimonial homes. They became voters of village Teekula and their names were included in the voter list of Gram Panchayat, Teekula.

For the Panchayat elections, Gram Panchayat Teekula was reserved for the Scheduled Tribes Women category. Rupa Manjhi and Arti Manjhi being women of Scheduled Tribe Community filed their nominations along with the required details on oath on 6/1/2015 and 8/1/2015 respectively. Another nomination was filed by one Ramo Adiwasi. After examination of nominations, all three nominations were found proper and on 10/1/2015 symbols were allotted to all three candidates.

On a complaint of Ramo Adiwasi, Returning Officer Janpad Panchayat Sialpur issued a notice dated 14/1/2015 to Rupa Manjhi and Arti Manjhi mentioning that the caste “Manjhi” is

not included in the list of Scheduled Tribes for the District Sialpur. He also directed them to remain present and produce their reply to the notice by 15/1/2015. Rupa Manjhi and Arti Manjhi appeared and submitted their reply along with the Copy of The Schedule Castes and Scheduled Tribes Orders (Amendment) Act 1976, four Circulars of The State of Central Province and two Orders of Collector, Sialpur in regard to inclusion of Manjhi Community in the list of Scheduled Tribes, within stipulated time.

Returning Officer, Janpad Panchayat, Sialpur, vide Notice dated 19/1/2015, rejected the nominations of Rupa Manjhi and Arti Manjhi on the basis of a letter dated 16/1/15 of S.D.O., Lashkar District Gabana, stating that their names are not mentioned in the “Dayara Register” of S.D.O. Lashkar District Gabana though the said letter of SDO Lashkar was not referred in the notice dated 14/1/2015 issued by the Returning Officer, Janpad Panchayat, Sialpur.

On 21/1/2015 Rupa Manjhi preferred a writ Petition before High Court of Central Province, challenging the order dated 19/1/2015, on the ground of violation of Rule 40 A of Central Province Panchayat Nirvachan Niyam, 1995 and also on the want of opportunity of hearing on the issue of communication dated 16/1/2015 of SDO, Lashkar, District Gabana. She also stated that when, the Caste Certificate in question was issued by SDO Gabana, then how it can be found in the record of SDO Lashkar, who communicated that the name of Rupa Manjhi was not included in the record.

After cancellation of nominations of Rupa Manjhi and Arti Manjhi, Ramo Adiwasi remained the only contesting candidate, and was declared “Elected Unopposed” by the Returning Officer on 21/1/2015. Later on who, filed an application to become intervener in the writ Petition filed by Rupa Manjhi. Rupa Manjhi, also filed an application to amend the relief clause of writ petition and also challenged the legality of declaration of the result of election dated 21/1/2015.

Hon’ble High Court allowed the writ petition on the ground that the order dated 19/1/2015 was in contravention of Rule 40 A of Central Province Panchayat Nirvachan Niyam, 1995 vide order dated 15/2/2015 and restored the candidature of Rupa Manjhi. Consequently, result of election dated 21/1/2015 was also declared illegal. Court also clarified that no further petition in the matter shall be entertained in light of Article 243-O of the Constitution of India.

Ramo Adiwasi and C.P. State Election Commission filed two separate Special Leave petitions before Supreme Court being aggrieved by the order dated 15/2/2015 passed by the High Court which were admitted and both the appeals were listed together. Ramo Adiwasi and C.P. State Election Commission raised the issue of maintainability of the case on the ground of restrictions provided under Article 243-O of the Constitution of India.

In her reply, Rupa Manjhi challenged the constitutional validity of section 121 and 122 of Central Province Panchayatraj Evam Gram Swaraj Adhiniyam 1994. She also challenged the validity of Article 243-O of the Constitution of India on the ground that it is against the principle of basic structure of the Constitution.

C.P. State Election Commission submitted rejoinder mentioning that three constitutional benches have examined the scope of Article 329 of the Constitution and Article 243-O is *pari materia* to it, hence cannot be considered by this bench.

The matter was referred to Constitutional Bench for the issues raised by Rupa Manjhi. Case is listed for final hearing.