

**Court No. - 36**

**Case :-** WRIT - C No. - 11150 of 2021

**Petitioner :-** Paramatma Nayak and 2 Others

**Respondent :-** State Of U.P. And 8 Others

**Counsel for Petitioner :-** Krishna Mohan Misra

**Counsel for Respondent :-** C.S.C.

**Hon'ble Mahesh Chandra Tripathi,J.**

**Hon'ble Saurabh Shyam Shamsbery,J.**

Present matter has been placed before us under the orders of Hon'ble the Chief Justice dated 02.4.2021.

We have heard Shri H.R. Mishra, learned Senior Advocate assisted by Shri Krishna Mohan Misra, learned counsel appearing for the petitioners and Shri Bipin Bihari Pandey, learned Chief Standing Counsel assisted by Shri Sanjay Kumar Singh, learned Additional Chief Standing Counsel, Shri Indrasen Singh Tomar, learned Additional Chief Standing Counsel and Shri Devesh Vikram, learned Standing Counsel for the respondents.

Present writ petition is preferred by the petitioners seeking following reliefs:-

"i. To issue a writ, order or direction in the nature of certiorari calling for the records of the case and to quash the final list of reservation dated 26.03.2021 notified by the State Government in respect of Panchayat Election 2021 (Annexure-2 to the writ petition) only insofar as it relates to de-reservation of the office of Pradhan shown reserved for Chawariyan Bujurg, Chawariyan Khurd (Block Kauri Ram) and Mahavar Kol (Block Brahmpur) shown in the provisional list.

ii. To issue a writ, order or direction in the nature of certiorari calling for the records of the case and to quash the reports submitted by the Tehsildar of the concerned area stating that no person of Scheduled Tribe Category is available as well as to set aside the report of the District Magistrate submitted to the State Government based on the report of the concerned Tehsildar of the area (Tehsil).

iii. To issue a writ, order or direction in the nature of mandamus directing and commanding the State authorities not to act upon the report of the Tehsildar of Bansgaon, Gola, Chauri Chaura and Campiarganj, on the basis of which District Magistrate has reported to the State Government that no Scheduled Tribe person is available in the the entire District having the effect of dereserving the Seat of Gram Pradhan of District Gorakhpur, notified in the provisional list.

iv. To issue writ, order or direction in the nature of mandamus commanding the respondent State Government to allow the petitioners to contest the Panchayat Election from Village Chawariya Khurd, Chawariya Bujurg and Mahavar Kol reserved for S.T. candidate shown in the provisional list."

Shri Bipin Behari Pandey, learned Chief Standing Counsel has raised a preliminary objection regarding maintainability of the present writ petition on the ground that on 26.3.2021, the State Election Commission has issued a notification for holding Panchyat elections in the State and in view of the constitutional bar contained in Article 243-O of the Constitution, the writ petition is liable to be dismissed.

In view of the constitutional bar contained in Article 243-O of the Constitution, it would not be appropriate or proper for the Court to entertain the petition, once the electoral process has been initiated. Hence, we decline to exercise our writ jurisdiction under Article 226 of the Constitution on that ground.

The writ petition is, accordingly, dismissed.

**Order Date :-** 2.4.2021

RKP