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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 507 of 2022

1 - Omprakash Joshi S/o Sewakram Joshi Aged About 33 Years Occupation- Service, Posted As Secretary Gram Panchayat Munda, Janpad Panchayat Balodabazar, Dist-Balodabazar-Bhatapara Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Principal Secretary Panchayat And Rural Development Department, Mahanadi Bhawan, New Raipur Chhattisgarh.

2 - The Sub-Divisional Officer (Revenue) Balodabazar, District-Balodabazar Bhatapara Chhattisgarh.

3 - Chief Executive Officer Janpad Panchayat Balodabazar, District- Balodabazar, Bhatapara Chhattisgarh.

4 - Incharge Panchayat Inspector Janpad Panchayat Balodabazar, District- Balodabazar- Bhatapara Chhattisgarh.

5 - Thanuram Verma Sarpach, Gram Panchayat Munda, Janpad Panchayat Balodabazar, District-Balodabazar Bhatapara Chhattisgarh.

... Respondent(s)

For Petitioner(s)	:	Shri Yogesh Kumar Chandra, Advocate.
For State	:	Shri Anway Tiwari, PL.
For Respondent No.5	:	Shri Shikhar Sharma, Advocate.
For Respondent No.3	:	Shri Prashant Sirmaur appears on behalf of Shri Jitendra Pali, Advocates.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

13/08/2026

1. Instant petition has been filed against the order dated 31.12.2021 passed by respondent no.2 in Revenue Case No.201812210200004/2 year 2018-19 (Annexure P/1)"Thanuram Verma Vs. Omprakash Joshi" whereby order has

been passed under section 92 of C.G. Panchayat Raj Adhiniyam for recovery of Rs.485150/- and, in default, civil imprisonment for 30 days will be imposed after issuance of search warrant and recovery of amount will be made from deducting the same from his salary.

2. Brief facts of the case are that the petitioner was working as the Secretary of Gram Panchayat Munda, Janpad Panchayat Balodabazaar, District Balodabazaar-Bhatapara, Chhattisgarh, whereas respondent No.5 was the elected Sarpanch of the said Gram Panchayat. On 30.07.2018, respondent No.5 submitted a complaint before respondent No.2 alleging certain financial irregularities in the functioning of Gram Panchayat Munda. It was alleged that the petitioner had obtained the signatures of the Sarpanch on blank cheques and thereafter withdrawn amounts from the bank. It was further alleged that the petitioner had threatened respondent No.5 with implication in a false case. On the basis of the aforesaid complaint, respondent No.2 registered Revenue Case No. 02/A-89/2018-19 on 30.07.2018 and issued notice to the petitioner. The petitioner duly submitted his reply on 09.08.2018, wherein he specifically stated that the construction works in question were being undertaken by the Sarpanch and that the cheques were issued only after obtaining the certification and approval of the Sarpanch. The petitioner, therefore, denied any responsibility for the alleged embezzlement or financial irregularities. Thereafter, on 17.09.2018, respondent No.2 called for a report from respondent No.3. The said report was submitted on 13.12.2018 along with the inquiry report prepared by respondent No.4 dated 24.11.2018. In the said inquiry report, it was observed that the amounts allegedly utilized under other heads were recoverable from both the Sarpanch and the Secretary.

However, in the concluding part of the report, the Inquiry Officer attributed liability of Rs.4,85,150/- to the petitioner, whereas the liability attributed to the Sarpanch was assessed at Rs.1,12,150/- only. The order sheets of the proceedings demonstrate that the case was pending before respondent No.2 from 30.07.2018 onwards. Thereafter, without concluding the proceedings in accordance with law and after a considerable and unexplained lapse of time, respondent No.2 proceeded to pass an order dated 31.12.2021 purportedly under Section 92 of the Chhattisgarh Panchayat Raj Adhiniyam, directing recovery of an amount of Rs.4,85,150/- from the petitioner alone. While passing the order dated 31.12.2021, respondent No.2 recorded that respondent No.5/Sarpanch had deposited an amount of Rs.12,150/-. The said order further provided that, in the event of non-payment of Rs.4,85,150/- by the petitioner, coercive measures could be taken against him, including his confinement in civil prison, issuance of search warrant, recovery of the amount as arrears of land revenue and deduction of the amount from his salary. The petitioner is aggrieved by the aforesaid order dated 31.12.2021, whereby the entire alleged liability has been fastened upon the petitioner alone, despite the fact that the inquiry report itself had attributed responsibility to both the Sarpanch and the Secretary. The petitioner is, therefore, constrained to invoke the extraordinary jurisdiction of this Hon'ble Court seeking appropriate relief against the impugned order and the consequential recovery proceedings.

3. Learned counsel for the petitioner submits that while passing the impugned order, Section 89 and 92 of the CG Panchayati Raj Adhiniyam has not been adhered to. Section 89 of C.G. Panchayat Raj Adhiniyam prescribes a

procedure to hold a office bearer of Panchayat liable for his misconduct, negligence or misapplication of funds whereas section 92 of C.G. Panchayat Raj Adhiniyam empowers the authority for execution of order passed under section 89 C.G. Panchayat Raj Adhiniyam. He submits that a complaint was made by Sarpanch/respondent no.5 against whom there is allegation of misappropriation of fund and cheques were disbursed and fund was used with his consent. Inquiry was conducted by respondent no.4 behind the back of petitioner and its content has not been proved by relevant documents and by examining the author of the inquiry report therefore it cannot be relied with . The order passed by respondent no.2 has civil/penal consequences therefore it cannot be passed in a farce proceeding without affording proper opportunity of hearing to the parties and without adducing evidence to prove the guilt of the concerned Panchayat office bearers/servants.

4. Counsel for Respondent No.5 submits that they have deposited the penalty.
5. The impugned order has been passed under Section 92 of the Chhattisgarh Panchayat Raj Adhiniyam, whereas the determination of liability for misconduct, negligence or misapplication of funds is required to be undertaken in accordance with the procedure prescribed under Section 89 of the said Adhiniyam. Section 92 operates in the nature of a provision for execution/recovery of an amount pursuant to an order passed in accordance with law. Therefore, before resorting to the coercive measures contemplated under Section 92, the authority is required to ensure that the liability of the concerned Panchayat office bearer or servant has been duly determined after following the prescribed procedure and principles of natural justice.

6. Moreover, the petitioner has specifically disputed the inquiry report and has contended that the same was prepared without affording him an adequate opportunity to controvert the material relied upon therein. When an order entails serious civil consequences, including recovery of money, attachment or deduction from salary and even confinement in civil prison, the authority is required to follow a fair and transparent procedure and afford the concerned person an effective opportunity to defend himself.
7. In the present case, the inquiry report itself indicates that liability was attributable to both the Sarpanch and the Secretary. Despite this, the entire amount of ₹4,85,150/- has been fastened upon the petitioner without there being a clear adjudication, based upon legally admissible material, as to why the petitioner alone should bear the entire liability.
8. In view of the aforesaid, this Court is of the considered opinion that the impugned order dated 31.12.2021 cannot be sustained in its present form. The matter requires reconsideration by the competent authority after following the procedure contemplated under Sections 89 and 92 of the Chhattisgarh Panchayat Raj Adhiniyam and after affording due opportunity of hearing to the petitioner.
9. Accordingly, the impugned order dated 31.12.2021 passed by respondent No.2 in Revenue Case No.201812210200004/2 for the year 2018-19 is hereby **set aside**. The matter is remitted to the competent authority for conducting a fresh inquiry in accordance with law.
10. The competent authority shall afford the petitioner a proper and effective opportunity of hearing and shall permit him to produce oral as well as

documentary evidence in support of his defence. The authority shall also consider the material relied upon against the petitioner in accordance with law and shall determine the respective liability, if any, of the concerned Panchayat office bearers/officials by passing a reasoned and speaking order.

11. Needless to say, the proceedings shall be conducted in accordance with the procedure prescribed under Sections 89 and 92 of the Chhattisgarh Panchayat Raj Adhiniyam and in compliance with the principles of natural justice.

12. The aforesaid exercise shall be completed within a period of **90 days** from the date of receipt of a copy of this order.

13. It is clarified that this Court has not expressed any opinion on the merits of the allegations or on the actual liability of the petitioner or any other person. The competent authority shall decide the matter independently, uninfluenced by any observation made herein.

14. The petition stands allowed to the aforesaid extent.

Sd/-

(Amitendra Kishore Prasad)
Judge

Avinash