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Not listed / SB
S.K. Dadsena
8-12-2008

Amended writ petition

**IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT
BILASPUR**

W.P.(C) NO. 4185 / 2007

169657 CB
Filed on 08/12/08
by S.K. Dadsena
01.10
Petitioner

Smt. Jhileshwari Diwan
(Sarpanch), W/o Om Kumar,
Aged about 36 years, R/o
Village - Thakurdiya Kala,
Block - Pithora,
Tehsil - Mahasamund,
Dist : Mahasamund-(C.G.)

Versus

Respondents

1. State of Chhattisgarh
Through - The Secretary
Department of Panchayat &
Social Welfare,
D.K.S. Bhawan, Raipur,
Dist : Raipur-(C.G.)
2. The Director Panchayat &
Social Welfare Department,
Chhattisgarh.
3. The District Collector,
Mahasamund,
Dist : Mahasamund-(C.G.)
4. The Dy. Director,
Panchayat and Social
Welfare, Mahasamund, Dist
: Mahasamund-(C.G.)
5. Sub Divisional Officer
(Revenue), Mahasamund,
Raipur-(C.G.)
6. Vishram Patel, S/o Shri
Nand Bihari Patel, Aged
about 60 years, Ward
Member, Ward No.11, R/o
Village Saraipali, Gram
Panchayat Thakurdiya
Kala, Block - Pithora, Distt.
Mahasamund-(C.G.)

All Respondents
Copy served
S.K. Dadsena
8-12-2008
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Sent to A.G. BILASPUR

**WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA**



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HIGH COURT OF CHHATTISGARH AT BILASPUR

SB: Hon'ble Shri Justice Pritinker Diwaker

W.P. (C) No. 4185/2007

PETITIONER

Smt. Jhileshwari Diwan

VERSUS

RESPONDENTS

State of Chhattisgarh and others

Shri S.K. Dadsena counsel for the petitioner.

Shri Vaibhav Goverdhan PL for respondents 1 to 5/State.

ORDER
(01.01.2014)

Challenge in the present petition filed under Article 227 of the Constitution of India is to the order dated 15.6.2007 passed by respondent No.2 in Revision Case No. 77/A-89(9)06-07 affirming the order of the Collector dated 22.1.2007.

2. Facts of the case in brief are that on 1.5.2004 the petitioner was elected as Sarpanch of Gram Panchayat Thakurdiakala, Tehsil Pithora, District Mahasamund. It appears that certain financial irregularities were committed by the petitioner while working as Sarpanch of the concerned Gram Panchayat and thereafter some enquiry was conducted by the Deputy Director in which allegations levelled against the petitioner were found to be correct. After getting the report, initially notice (Annexure R-1) was issued to the petitioner along with copy of the enquiry report but when the petitioner failed to appear before the SDO, second show cause notice (Annexure R-2) was issued to her. Second



show cause notice was duly served on the petitioner but she did not file any reply. SDO after recording evidence of some of the persons, on 3.1.2006 passed the order debarring the petitioner from contesting the election for a period of six years. SDO also directed for recovery of Rs. 56, 777.50 against the petitioner for embezzlement of 87.35 quintals of rice.

3. Aforesaid order of the SDO was unsuccessfully challenged before the Collector who by order dated 22.1.2007 dismissed the appeal of the petitioner. Against the order of the Collector, the petitioner preferred a revision before respondent No.2 which by the order impugned dated 15.6.2007 came to be dismissed affirming the orders passed by the SDO as well as the Collector.

4. Counsel for the petitioner submits that while conducting preliminary enquiry proper opportunity was not given to the petitioner and evidence of the villagers were not recorded. He submits that though second show cause notice (Annexure R-2) was received by the petitioner, she could not file the reply as on that day she was sick for which a medical certificate was also submitted by her. Counsel for the petitioner further submits that as term of the petitioner as Sarpanch has already expired, fine amount imposed on her may be waived as she is an illiterate tribal lady.

5. Supporting the order impugned it has been submitted by the counsel for the respondents that not only in the preliminary enquiry sufficient evidence was collected by the Enquiry Officer but at the subsequent stage also the SDO has recorded the statement of various persons and then came to the conclusion that it is the petitioner who committed embezzlement of 87.35 quintals of rice. He submits that once the notice was duly served on the petitioner, it was incumbent upon her to file reply and as



she failed to file the reply, order came to be passed by the SDO.

6. Heard counsel for the parties and perused the documents on record.

7. From the documents on record it is apparent that after conducting a detailed enquiry proper opportunity was given to the petitioner to file reply and when she failed to file the reply, SDO proceeded against her. From the order of the SDO it is clear that enough evidence was collected by him before passing the impugned order and there was no infirmity in the same. Order of the SDO has been affirmed by the Collector and then by the Director (Respondent No.2).

8. Thus there is no illegality or infirmity in the order impugned warranting interference by this Court in exercise of power under Article 227 of the Constitution of India. Accordingly, the petition being without substance is liable to be dismissed and it is dismissed as such.

9. If the fine amount of Rs. 56, 777.50 has not been recovered from the petitioner as yet, the authorities would take prompt steps in this direction.

Sd/-
Pritinker Diwakar
Judge

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