

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (C) NO. 1806 / 2013

Single Bench

PETITIONER :

Ashok Kumar Sahu,
S/o Vishnu Ram Sahu, 46 years,
Sarpanch (Removed) R/o Village
Jawaibandha, Post - Khola, Tahsil &
P.S. - Abhanpur, District - Raipur-
(C.G.)

VERSUS

RESPONDENTS :

1. State of Chhattisgarh,
Through : The Secretary,
Panchayat and Rural Development
Department, Mantralaya, Post &
P.S. - Rakhi, Raipur, Civil &
Revenue District-Raipur-(C.G.)
2. The Commissioner, Raipur Division,
Post - Kutchari, P.S. - Gole Bazar,
Raipur, Civil & Revenue District -
Raipur-(C.G.)
3. The Additional Collector, Raipur
Post - Kutchari, P.S. - Gole Bazar,
Raipur, Civil & Revenue District -
Raipur-(C.G.).
4. The S.D.O. Cum Prescribed
Authority, Arang, Abhanpur, Post &
P.S. - Abhanpur, Civil & Revenue
Distt. Raipur-(C.G.)
5. Purshottam Sahu,
S/o Puna Ram Sahu, 48 years, R/o
Jawaibandha, Post - Khola, P.S. &
Tahsil - Abhanpur, Civil & Revenue
District - Raipur-(C.G.)

R No. 1806/13
Presented by Shri. K. Desai
Dated 02/12/13

WRIT PETITION U/A 226 & 227 OF THE CONSTITUTION OF INDIA



HIGH COURT OF CHHATTISGARH, BILASPUR
W.P. (C) No. 1806 of 2013

PETITIONER

Ashok Kumar Sahu

Versus

RESPONDENTS

State of Chhattisgarh & others

Shri Keshav Dewangan and Shri Harshal Chouhan, counsel for the petitioner.

Shri Adil Minhaj, Panel Lawyer for the State.

Shri C.R. Sahu and Shri C.K. Sahu, counsel for the respondent No.5.

SINGLE BENCH : HON'BLE SHRI PRASHANT KUMAR MISHRA, J.

ORAL ORDER
(06/01/2015)

Petitioner has assailed the legality and validity of order dated 30/09/2013 passed by the Commissioner, Raipur Division affirming the appellate order passed by the Additional Collector, Raipur on 16/07/2012 and the original order passed by the Sub Divisional Officer, Arang-Abhanpur on 20/03/2012 directing removal of the petitioner from the office of Sarpanch of Gram Panchayat, Jawaibandha, Block Abhanpur, District Raipur in exercise of powers under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short, 'Adhiniyam').

2. On a complaint made by the respondent No. 5 the Lokpal MANREGA, Raipur registered proceeding against the petitioner. After a duly conducted enquiry, in which the petitioner also participated, the said Lokpal made a report on 05/07/2011 (Annexure R-1) finding that the petitioner and the Rozgar Sahayak of the Gram Panchayat are involved in preparing forged muster roll and showing release of amount of wages to person who have not actually worked in different works undertaken by the Gram Panchayat. The Lokpal recommended action against the petitioner but the kind of action or the authority who would initiate such

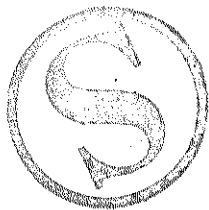


action was not specified. When nothing moved further, the respondent No. 5 made a complaint/application before the Sub Divisional Officer (Revenue) under Section 40 of the Adhiniyam seeking petitioner's removal from the office. In this proceeding also the petitioner was afforded proper opportunity of hearing including the opportunity to adduce evidence and thereafter the impugned order Annexure P/1 has been passed against him.

3. Learned counsel for the petitioner would submit that the Sub Divisional Officer (Revenue) should have summoned an independent report on the issue rather than acting on the report of Lokpal MANREGA and thus there is violation of the procedure prescribed under Section 40 of the Adhiniyam. He would also submit that the respondent No.5 has encroached a piece of government land in the village for which petitioner has initiated action, therefore, false complaint has been lodged by the said respondent.

4. Learned State counsel as well as learned counsel for respondent No. 5 would oppose the prayer made in this writ petition.

5. The finding recorded by the Lokpal MANREGA is not under challenge before this Court. Section 40 of the Adhiniyam nowhere makes it mandatory for the prescribed authority to call for an independent report nor does it prohibit making use of a pre-existing report made by any statutory authority or any other agency. What Section 40 of the Adhiniyam requires is that the prescribed authority may remove an office bearer of a Gram Panchayat after making such enquiry as it may deem fit. It is not elaborated as to whether making of the



114

-3-

enquiry would require summoning of a report. Thus the requirement of making enquiry has to be understood in ordinary legal parlance. Therefore, the only requirement is that while conducting such enquiry the prescribed authority shall give reasonable opportunity of hearing to the concern office bearer which includes informing the office bearer of the charges which he would be required to meet, proper time to submit reply and thereafter, if the evidence is led by the parties, opportunity to cross-examine the witnesses.

6. It is not the case of the petitioner that the prescribed authority has violated the principles of natural justice or that no enquiry worth the name has been conducted in the matter. It is settled that writ Court cannot interfere with the finding of fact recorded by statutory or quasi judicial authority unless the said finding is outrageously perverse and defies logic and common sense. There is nothing in the record to indicate that the finding against the petitioner is perverse. Even if, the respondent No. 5 has encroached some part of government land in the village, that does not validate the illegal action of the petitioner. The Panchayat or the concerned revenue officer may initiate action against the respondent No. 5 but only on that count, the order under Section 40 of the Adhiniyam cannot be faulted with.

7. In the opinion of this Court, the concurrent order passed by the three subordinate authorities namely Sub Divisional Officer, Additional Collector and the Commissioner does not call for any interference.

8. The writ petition being sans substance it is dismissed.

Sd/-
Prashant Kumar Mishra
Judge