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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1962 of 2014**

- Jogi Ram S/o Dashrath Verma (Lodhi), aged about 47 years, Sarpanch Gram-Panchayat- Takam, Janpad Panchayat-Berla, Police Station & Tahsil-Berla, District-Bemetara C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Department of Panchayat, Mantralaya Mahanadi Bhawan, New Raipur, District-Raipur (C.G.)
2. The Commissioner, Durg Division, District Durg C.G.
3. The Collector Bemetara District Bemetara C.G.
4. The Sub Divisional Officer Saja District Bemetara C.G.
5. Narayan S/o Khuman Patel R/o Village Takam, Janpad Panchayat-Berla, Police Station & Tahsil-Berla, District-Bemetara C.G.
6. Mithlesh S/o Ude Ram Patel R/o Village Takam, Janpad Panchayat-Berla, Police Station & Tahsil-Berla, District-Bemetara C.G.
7. Rajesh S/o Budhram Patel R/o Village Takam, Janpad Panchayat-Berla, Police Station & Tahsil-Berla, District-Bemetara C.G.
8. Hemant S/o Vishambhar Nishad R/o Village Takam, Janpad Panchayat-Berla, Police Station & Tahsil-Berla, District-Bemetara C.G.

---- Respondents

For Petitioner	:	Shri AK Yadav, Advocate
For Respondent No.1 to 4/State	:	Shri Sunil Pillai, Panel Lawyer for the State.
For Respondent No.5 & 6	:	Shri RS Baghel, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****24/03/2015**

Heard learned counsel for the parties.

1. The petitioner has assailed the legality and validity of the order passed by the Collector, Bemetara, whereby he has been removed from the office of Sarpanch, village Takam, Tahsil Barela, District Bemetara and the revisional order passed by the Commissioner, Durg, dismissing his revision application.
2. Insofar as the order of removal is concerned, the elected term of the petitioner having already been expired, the same has been rendered infructuous, however, the challenge to the consequent order of disqualification to contest election of any office under the Panchayat for a period of six years, the petition still survives. The allegation against the petitioner is of cutting large number of Babool trees standing on Government land without seeking permission from the competent officer of the forest department.
3. The petitioner would draw attention of the Court to the document Annexure P-5 and the resolutions passed by the Gram Panchayat on 30-6-2010 and 25-2-2012 to argue that the trees were cut after seeking permission from the forest department and in any case the forest officers were in the know of things, because such cutting of trees was necessary for carrying out plantation. He would further submit that the petitioner has acted bonafidely, therefore, the removal and disqualification deserves to be set aside.
4. Learned State counsel and learned counsel for respondents No.5 & 6 would submit that the petitioner is guilty of cutting huge number of Babool trees, therefore, the order does not call for any interference.
5. Petitioner's defence stems out of the letter (Annexure P-5), written by the Forest Range Officer, Bemetara to the Sub-Divisional Officer (Revenue), Saja, district Bemetara (for short 'the SDO'). It is this letter, which according

to the petitioner, would amount to permission by a forest officer for cutting of Babool trees.

6. Learned counsel would persuade this Court to go through the entire documents and on his persuasion, this Court read the entire document only to find out that the author of the communication i.e. the Forest Range Officer has not only tried to make out a case in petitioner's favour but also has tried to save his own skin because the said forest officer was also responsible for illegal felling of trees.
7. It appears, because the said forest officer permitted the petitioner and kept his eyes closed when such cutting was going on, he prepared this document by referring to the resolutions passed by the Gram Panchayat, as if, the said resolutions have recommended for cutting of trees. The fact is, no such resolution was ever passed by the Gram Panchayat. The resolutions were only to the effect that the Gram Panchayat agrees for plantation on 4.00 Hectares land.
8. This Court has never come across any such order wherein oral prayer for cutting of trees is made and the forest authority granted oral permission for cutting of trees.
9. At this juncture, learned counsel for the petitioner would refer to the document Annexure P-6, issued by the Collector, Bemetara, wherein he has directed the SDO to clear the area for plantation of trees because some persons are creating hurdle. This communication cannot be treated as a permission for cutting of trees because the Collector is not an authority for according sanction of cutting trees and secondly there is no whisper in the communication that cutting of trees would be necessary for removing the hurdle for plantation.

10. For the foregoing, the writ petition is liable to be, and as accordingly dismissed.
11. In the considered opinion of this Court, the Forest Range Officer, Bemetara, who conducted the spot inspection on 12-2-2013, as is mentioned in Annexure P-5, also deserves to be proceeded departmentally firstly for his failure to stop illegal cutting of trees and secondly for making out a case of oral prayer and thereafter oral permission for cutting of trees.
12. In the facts of the case, the Secretary, Department of Forest, Government of Chhattisgarh is directed to constitute a preliminary enquiry against the said Forest Range Officer and if in the said preliminary enquiry, the Forest Range Officer is found to have committed any misconduct in discharge of his duties, he should be departmentally proceeded.
13. A report of the preliminary enquiry and the proposed action to be taken against the Forest Range Officer be informed to this Court.
14. Let a separate MCC be registered, wherein the Secretary, Department of Forest, Government of Chhattisgarh shall send a compliance report to this Court.

JUDGE

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