

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(S) No. 1848 of 2015

- Anil Kumar , Son of Shiv Kumar , Aged About 19 years, Working on the Post of Panchayat Sahayak-Cum-Data Entry Operator, At Gram Panchayat Koteya, District Surguja, R/o Village Koteya, Post Office Koteya, Police Station Pratappur, District Surajpur, (Chhattisgarh)

----- Petitioner

Versus

1. State Of Chhattisgarh, through The Secretary, Department of Panchayat & Rural Development, Mantralaya, Mahanadi Bhawan, Capital Complex, Naya Raipur, Post Office Rakhi, District Raipur, (Chhattisgarh)
2. The Collector, Surajpur, District Surajpur, (Chhattisgarh)
3. The Chief Executive Officer, Jila Panchayat Surajpur, District Surajpur, (Chhattisgarh)
4. The Chief Executive Officer, Janpad Panchayat Pratappur, District Surajpur, (Chhattisgarh)
5. The Gram Panchayat Koteya, Through the Sarpanch, Gram Panchayat Koteya, Tahsil Pratappur, District Surajpur, (Chhattisgarh)

----- Respondents

For Petitioner	Shri T. R. Chandrakar, Advocate
For Respondent /State	Mr. Shashank Thakur, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

13/05/2015

1. Heard finally with the consent of learned counsel for the parties.
2. The petitioner is challenging the order – Annexure P/1, whereby, the Collector, Surguja has directed CEO, Janpad Panchayat, Pratappur to cancel the petitioner's appointment on the post of Panchayat Assistant-cum-Data

Entry Operator of Gram Panchayat, Koteya, Janpad Panchayat, Pratappur, District Surajpur.

3. Although the Scheme governing the appointment of Panchayat Assistant-cum-Data Entry Operator provides for an appeal under the provisions of Chhattisgarh Panchayat Adhiniyam, 1993 yet considering the fact that the impugned communication issued by the Collector, Surajpur is addressed to the CEO, Janpad Panchayat, Pratappur and the executing authority i.e. the appointing authority of the petitioner is Gram Panchayat Koteya, the said authorities being subordinate to the Collector, have no option but to comply with the order. Therefore, this writ petition is entertained on merits.

4. The Gram Panchayat, Koteya appointed the petitioner as Panchayat Assistant-cum- Data Entry Operator by order dated 09.08.2014 and since thereafter, the petitioner is working on the said post. The impugned order would indicate that the same has been endorsed to one Rajesh Kumar Ravi S/o Ramlagan Ram. It would appear that said Rajesh Kumar Ravi has preferred a complaint before the Collector and thereafter, the Collector made an enquiry and directed for cancellation of the petitioner's appointment. There is nothing in the order to indicate that the petitioner has been afforded an opportunity of hearing by the Collector before directing cancellation of petitioner's appointment.

5. It is the settled law that a person appointed to a post cannot be terminated without giving him an opportunity of hearing to him (Please see : *Shrawan Kumar Jha and others v. State of Bihar and others*, AIR 1991 SC 310, *D.K. Yadav v. J.M.A. Industries Ltd. & Others*, (1993) 3 SCC 259, *Basudeo Tiwari v. Sido Kanhu University & Others*, AIR 1998 SC 3261, *Canara Bank & Others v. Debasis Das and others*, (2003) 4 SCC 557,

Vivekanand Sethi v. Chairman, J & K Bank Ltd. & Others, (2005) 5 SCC 337
Mohd. Sartaj & another v. State of U.P. & Others, (2006) 2 SCC 315,
Inderpreet Singh Kahlon & others v State of Punjab & others, AIR 2006 SC
2571, *Ashok Kumar Sonkar v. Union of India & Others*, (2007) 4 SCC 54,
State of Manipur & Others v. Y. Token Singh & others, (2007) 5 SCC 65,
*Jaswant Singh Pratap Singh Jadeja v. Rajkot Municipal Corporation &
another*, (2007) 10 SCC 71, *Nehru Yuva Kendra Sangathan v. Mehbub Alam
Lashkar*, (2008) 2 SCC 479, *State of Punjab & others v. Constable Avtar
Singh (dead) Through Lrs.*, (2008) 7 SCC 405 and *Prakash Ratan Sinha vs.
State of Bihar and others*, (2009) 14 SCC 690.

6. In view of the above, the impugned order is quashed on the sole ground of violation of principles of natural justice.

7. Accordingly, the writ petition is allowed to the extent indicated above. However, liberty is reserved to the respondent/Collector to issue notice to the petitioner and afford him an opportunity of hearing before recommending cancellation of his appointment. The Collector shall complete the fresh exercise within a period of 3 months from today.

JUDGE