

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1588 of 2015

1. Ajay Jaiswal S/o Shri K. L. Jaiswal, Aged About 40 Years Vice President, Zila Panchayat
Korba R/o Lalu Ram Colony, Thana Kotwali, Tehsil & Distt. Korba (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Rural Development
Department, Mahanadi Bhawan Mantralaya, Naya Raipur (Chhattisgarh)
2. Collector, Korba, Distt. Korba (Chhattisgarh)
3. P. Dayanand, Collector, Korba, Distt. Korba (Chhattisgarh)

---- Respondents

For Petitioner.	:Shri Sanjay Patel, Advocate.
For Respondent/State.	: Shri R. K. Gupta, Dy. Advocate General.

Order On Board

08/09/2015

Heard.

1. This petition is directed against the show cause notice dated 18.07.2015 and 26.08.2015 issued by 2nd respondent by which a show cause notice has been given to the petitioner as to why he be not suspended and also be not initiated a proceedings against him for his removal from the Office.
2. Learned counsel for the petitioner submits that the 2nd respondent does not have jurisdiction to issue a notice or initiate proceedings for removal him from Office or to propose his suspension.
3. The other submission of learned counsel for the petitioner is that unless and until charges

are framed as contemplated under sub-Section (1) of Section 39 of the Panchayat Raj Adhiniyam, 1993, (for short “the Act of 1993”) for specified offence, no proceeding for suspension could be initiated. It is also argued that the 2nd respondent is acting malafide which can be inferred from the manner he has exercised his jurisdiction which does not have any basis.

4. Learned State counsel opposes and submits that on the face of it, the respondent initiated proceedings by giving a show cause notice alongwith the charge-sheet. In such eventuality, it is open for the authority to consider the matter and take appropriate proceeding in exercise of powers confers on it under Section 39 of the Act.

5. A show cause notice initiating enquiry from removal has been issued to the petitioner in exercise of power conferred under Section 40 of the Act of 1993 by respondent No. 2 who, undisputedly, is the prescribed authority in the matter of removal of Office bearer of Jila Panchayat. Suspension of Office bearer of Jila Panchayat is governed by Section 39 of the Act. On a bare perusal of the Act, it is apparent that an Office bearer of the Panchayat can be suspended in the eventuality as provided in Sub-Clause (a) or Sub-Clause (b) of Sub-Section (1) of Section 39. True it is that till date the charges in criminal cases have not been framed against the petitioner, once a show cause notice has been issued alongwith charge-sheet as provided Section 40 of the Act of 1993, it is within the jurisdiction of the prescribed Authority to consider whether suspension should be ordered or not. The power to suspend is discretionary in nature.

6. In the conspectus of aforesaid circumstance, I am not inclined to accept the submission at the threshold that the 2nd respondent does not have the jurisdiction in the matter.

The allegations of melafide are bereft of any material and merely because action has been initiated, no interference can be drawn at this stage that the respondent No. 2 is acting melafide. The petition is sans merit and is therefore, dismissed.

Sd/-

Manindra Mohan Shrivastava

Judge