

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 148 of 2015

Padumlal Soni S/o S/O Lalji Soni Aged About
75 years R/O Kududand, Thana Civil Lines,
Tah. Bilaspur, Civil And Rev. Distt. Bilaspur
C.G.

---- Petitioner

Versus

1. Bilaspur Griha Nirman Sahkari Samity,
Bilaspur & Anr. Through Its Managing
Director, R.G. Shukla, R/O Brihaspati
Bazar, Police Station Civil Lines, Bilaspur
C.G.
2. State Of Chhattisgarh Through Station
House Officer, Police Station Civil Lines
Bilaspur, C.G.

---- Respondents

For Petitioner:

For Respondent No.1:

Shri Sudhir Bajpai, Advocate.

For Respondent No.2/State:

Shri Shashank Thakur, GA.

Single Bench: Hon'ble Shri P. Sam Koshy, J
Order On Board

09/03/2015

This Court, while deciding Cr.M.P No.644/2014 on 20.08.2014 had directed that trial court should conclude the trial as expeditiously as possible within a period of 6 months. But for the reasons given in the letter issued by the Special Railway Magistrate dated 12.2.2015, the trial could not be concluded and the Magistrate concerned has sought for further extension of three months' time.

2. Taking into consideration the entire facts and circumstances of the case, this Court is of the opinion that it would be proper if further three months' time as prayed for by the Special Magistrate is granted.

3. Accordingly, it is observed that the trial court should now try to decide the matter within the extended period of three months as sought for by the Magistrate.

4. With the aforesaid observation, the present Cr.M.P stands disposed of.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Geeta Tiwari

Respondents State of Chhattisgarh and Others

Oral Order (24.02.2015)

4. At this juncture, counsel for the petitioner prays for withdrawal of the writ petition with liberty to approach the competent authority against the impugned order dated 26.12.2014 bringing these facts to the notice of the authority concerned.

5. State counsel submits that upon such representation being made, the competent authority shall take a decision objectively within a period of two weeks.

6. Having considered the submissions made by either side, I am of the opinion that since the respondents have sought two weeks' time for deciding the representation, ends of justice would meet if the petitioner is permitted to remain at the present place of posting till the representation so made by her is decided.

7. With the aforesaid observation, the writ petition stands disposed of with a direction that in the event if the petitioner makes a representation before the competent authority within a period of 10 days from today, the competent authority shall promptly take a decision on the representation of the petitioner as expeditiously as possible as has been submitted by counsel for the petitioner. However, till the representation so made by the petitioner is decided, she shall be permitted to perform her duties at the present place of posting.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Manju Shrivastava

Respondents State of Chhattisgarh and Others

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J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Smt C. Sahu

Respondents State of Chhattisgarh and Others

Oral Order
(24.02.2015)

The challenge in the instant petition is to the order dated 26.12.2014 whereby the services of the petitioner have been transferred from District Hospital, Rajnandgaon to the Sub-Health Center, Jangalpur, Community Health Center, Chuikhadan.

2. Counsel for the petitioner submits that the challenge to the order of transfer is only on the ground that as the petitioner is presently posted as ANM and while she was serving at the present place of posting, she has been selected as a departmental candidate for pursuing her course of GNM at Shri Siddhi Balaji School of Nursing at Rajnandgaon and since she has been granted permission by the department for pursuing the said course, if at this juncture, she is transferred from the present place of posting, the course which she is undertaking as a departmental candidate would be adversely affected detrimental to her service career.

3. State counsel opposes the prayer of the petitioner on the ground that the petitioner did not enjoy any such immunity of not being transferred only on the ground of having been selected as a departmental candidate for undergoing the GNM course. However, he submits that in the event the petitioner makes any representation to the higher authorities of the concerned department, the same shall be considered objectively.

4. At this juncture, counsel for the petitioner prays for withdrawal of the writ petition with liberty to approach the competent authority against the impugned order dated 26.12.2014 bringing these facts to the notice of the authority concerned.

5. State counsel submits that upon such representation being made, the competent authority shall take a decision objectively within a period of two weeks.

6. Having considered the submissions made by either side, I am of the opinion that since the respondents have sought two weeks' time for deciding the representation, ends of justice would meet if the petitioner is permitted to remain at the present place of posting till the representation so made by her is decided.

7. With the aforesaid observation, the writ petition stands disposed of with a direction that in the event if the petitioner makes a representation before the competent authority within a period of 10 days from today, the competent authority shall promptly take a decision on the representation of the petitioner as expeditiously as possible as has been submitted by counsel for the petitioner. However, till the representation so made by the petitioner is decided, she shall be permitted to perform her duties at the present place of posting.

J U D G E

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Sujit Kumar Sahu

Respondents South Eastern Coalfields Ltd. and Others

Oral Order (24.02.2015)

2. In view of above, the instant Writ Petition is dismissed as withdrawn with the aforesaid liberty.

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Savita Yunus

Respondents State of Chhattisgarh and Others

Oral Order (24.02.2015)

4. At this juncture, counsel for the petitioner prays for withdrawal of the writ petition with liberty to approach the competent authority against the impugned order dated 26.12.2014 bringing these facts to the notice of the authority concerned.

5. State counsel submits that upon such representation being made, the competent authority shall take a decision objectively within a period of two weeks.

6. Having considered the submissions made by either side, I am of the opinion that since the respondents have sought two weeks' time for deciding the representation, ends of justice would meet if the petitioner is permitted to remain at the present place of posting till the representation so made by her is decided.

7. With the aforesaid observation, the writ petition stands disposed of with a direction that in the event if the petitioner makes a representation before the competent authority within a period of 10 days from today, the competent authority shall promptly take a decision on the representation of the petitioner as expeditiously as possible as has been submitted by counsel for the petitioner. However, till the representation so made by the petitioner is decided, she shall be permitted to perform her duties at the present place of posting.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Gourishankar Mahila Swasahayata
Samuh

Respondents State of Chhattisgarh and others

Oral Order
(13.02.2015)

With the consent of counsel for the parties, the petition is finally heard and disposed of.

3. Factual matrix of the case is that on 5.2.2011 (Annexure P-3), the petitioner was allotted the Fair Price Shop in village Bhatgaon, Tahsil Berla. The petitioner was operating the said Fair Price Shop smoothly from the year 2011 onwards. Suddenly, on 14.10.2014, the Food Inspector conducted an inspection of the Fair Price Shop and prepared a *panchnama* which finds place in Annexure P-4 with the Writ Petition and which is part of the report prepared by the Food Inspector and the report was placed before SDO(Revenue). A perusal of the *panchnama* dated 14.10.2014 would show that during the course of the investigation, the Food Inspector did not find any sort of irregularity in the operation of the Fair Price Shop by the petitioner and the relevant entries in the *panchnama* are as under:-

“आज दिनांक 14/10/2014 को हम निम्न उपस्थित
हस्ताक्षरित पंचगणों के समक्ष खाद्य निरीक्षक बेरला द्वारा

शासकीय उचित मूल्य दुकान भटगांव तहसील बेरला जो कि गौरीशंकर महिला स्व सहायता समूह तारलिम द्वारा संचालित है कि जांच की गयी उक्त दुकान में दुकान के खुलने व बंद होने का समय एक बोर्ड में कमशः 10.30 ए०एम० से 5.00 पी०एम० लिखा है तथा अन्य निर्धारित बोर्ड लगे पाये गये किंतु हितग्राहियों की सूची रेट से प्राप्त वाली दुकान में उपलब्ध पायी गयी तथा दुकान में खाद्यान के नमूने प्रदर्शित नहीं पाये गये एवं भौतिक सत्यापन में चावल 0.35 क्विंटल कम एवं गेहूं 0.40 क्विंटल अधिक पाया गया एवं उक्त संबंध में उक्त दुकान के विक्रेता तामेश्वर परगनिहा द्वारा बताया गया कि कई हितग्राही अपनी पात्रतानुसार चावल व गेहूं न ले जाकर चावल के बदले गेहूं व गेहूं के बदले चावल ले जाते हैं इस कारण भौतिक सत्यापन में उक्त अंतर प्राप्त हो रहा है। जांच के समय उपस्थित हितग्राहियों द्वारा बताया गया है कि उक्त दुकान नियमित रूप से खुलती है एवं खाद्यान एवं अन्य सामग्री निर्धारित मूल्य एवं निर्धारित मात्रा में प्राप्त होता है तथा उक्त दुकान से किसी प्रकार की शिकायत नहीं है। उक्त दुकान में माननीय सर्वोच्च न्यायालय द्वारा सार्वजनिक वितरण प्रणाली के संबंध में दिये गये निर्देशों की प्रति लगी पायी गयी तथा स्टॉक बोर्ड मूल्य सूची बोर्ड संघारित पाया गया तथा स्टॉक रजिस्टर दिनांक 14/10/2014 का आरंभिक स्कंध तक संघारित पाया गया।”

Based upon the said *panchnama*, the Food Inspector had prepared a report to be placed before the SDO(Revenue) which is Annexure P-4 dated 16.10.2014. Surprisingly, the report prepared by the Food Inspector appears to be just opposite and contrary to the investigation report which reflects from the *panchnama* dated 14.10.2014 and in the said report of the Food Inspector, he states that there are various irregularities and violations of Chhattisgarh Public Distribution System (Control) Order, 2004 (for short 'the Order 2004') and accordingly, the Food Inspector recommended for a prompt action against the petitioner.

4. On the said report of the Food Inspector dated 16.10.2014, the SDO(R) also on the same day i.e. 16.10.2014 vide Annexure P-7, made a recommendation to the Collector whereby relying on the report of the Food Inspector, he recommended for suspension of the allotment of the

Fair Price Shop made to the petitioner and vide the same note sheet, the SDO also submits that upon suspending the petitioner's allotment, the Fair Price Shop may be allotted to another applicant Jai Mahamaya Mahila Mandal, Bhatgaon. The very fact that Jai Mahamaya Mahila Mandal, Bhatgaon was shown as an applicant for allotment of the said Fair Price Shop establishes the fact that the respondent/authorities had somehow made up their mind for cancelling the allotment made to the petitioner and also to allot the said Fair Price Shop to a third party.

5. After the recommendation of the SDO(Revenue) to the Collector on 16.10.2014, a show cause notice dated 25.10.2014 (Annexure P-5) was issued calling upon the explanation of the petitioner to which the petitioner promptly replied on 30.10.2014 and immediately on the next date, i.e. 1.11.2014, the impugned order (Annexure P-1) was issued suspending the allotment of the petitioner of the Fair Price Shop and on the same day an order Annexure P-8 issued by SDO (Revenue) shows that he had allotted the said Fair Price Shop to another society known as Sewa Sahkari Samiti Sardha. This has lead to the filing of the writ petition.

6. Counsel for the petitioner submits that reply to the show cause notice has not been considered by the respondents in any manner and therefore, the impugned order appears to be predetermined and that it also reflects the arbitrariness and the malafide intention on the part of the respondents. She further submits that the very fact that the respondents were predetermined to remove the petitioner from the Fair Price Shop is reflected from the attitude of the Food Inspector himself who at the time of preparing of the *panchnama* during the course of investigation, finds no irregularity to have been committed in the operation of the Fair Price Shop but after 2 days when he submits a report to the SDO(Revenue), he submits an entirely contradictory report stating that there are large number of irregularities in the conduct of the Fair Price Shop by the petitioner. She further contends that the malafides on the part of the respondents is further reflected from document Annexure P-7 dated 16.10.2014 on which date the SDO had received the report of the Food Inspector and the SDO on 16.10.2014 itself had expressed his intentions of removing the petitioner from the said Fair Price Shop goes to establish that they were predetermined in giving the said Fair Price Shop to a different society. This is also one of the reasons that when Annexure P-1,

the impugned order dated 1.11.2014 was passed, the respondents have not shown any reason or any consideration of the reply submitted by the petitioner to the show cause notice.

7. Thus, for these reasons, the petitioner prays for setting aside of the impugned order dated 1.11.14.

8. Per contra, the State counsel opposes the writ petition and submits that the petitioner has been given an opportunity of hearing vide Annexures P-5 and P-6 which is a show cause notice which itself shows that it was not a case where the right of hearing has been denied to the petitioner before the issuance of the impugned order. Further, counsel for the respondents also submits that there is an alternative remedy provided under the Order 2004 whereby, the petitioner could have approached the higher authorities for the redressal of his grievance and for these reasons, the writ petition was not maintainable. It is further submitted that fresh allottee has not been made a party by the petitioner and therefore, the petition also suffers from non-joinder of necessary parties.

9. Having perused the record and upon hearing counsel for either side, what clearly reflects is that the impugned order Annexure P-1 dated 1.11.2014 does not reflect any application of mind by the authorities before suspending the allotment made to the petitioner. Further, the authorities have also not taken care of the *panchnama* which was prepared by the Food Inspector on the date of inspection itself wherein the Food Inspector has not found any irregularity in the operation of the Fair Price Shop. These aspects ought to have been considered by the higher authorities even when the petitioner had brought it to the notice of the authorities or the authorities should have dealt upon it before passing the punitive order. Further, the action on the part of the respondents also smells malafide on account of the fact that the SDO(R) at the very first instance itself, before issuance of show cause notice to the petitioner, had decided to take action against the petitioner, whereby he had disclosed his mind of suspending the petitioner from the Fair Price Shop and also was predetermined to allot the said shop to a third person. Thus, the action on the part of the respondents, apparently is malafide and the allegations are contrary to the *panchnama* report of the Food Inspector dated 14.10.2014.

10. For the foregoing reasons, this Court is of the opinion that the impugned order does not deserve to be sustained and the same is accordingly set aside/quashed. The writ petition is allowed. No order as to costs. Consequences to follow.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioners Harikishan and another

Respondents Murari Lal Sahu and another

Oral Order
(13.02.2015)

4. Counsel for the respondents however opposed the said prayer of

the petitioners contending that the petitioners have moved the said application with an oblique intention of delaying tactics in the final adjudication of the suit. The respondents further contended that the petitioners/plaintiffs had never filed the suit relying upon the said document which they intend to bring it on record neither they made any reference in respect of the said document and suddenly they have, after the evidence has been concluded, brought this document on record. It is further contended that the said document was already in existence when the suit itself was filed and if the petitioners/plaintiffs were well aware of the said document and the contents thereof, they would have relied upon the said document while making the base for filing the suit. Having not done so itself shows that the case of the petitioners/plaintiffs was not on the basis of the said document and thus prayed for rejection of the petition.

5. Having considered the submissions made by either side and after perusing the record, it is reflected that in the application under Order 7 Rule 14 CPC, the petitioners/plaintiffs have not disclosed material details about the documents as to why the said document was not relied upon while filing of the suit and why their suit was not based upon the said document and further, they have also not explained as to the necessity of bringing this document on record. It would further be trite to mention that the court below has taken these facts into consideration while deciding the said application and has held that since the said document does not disclose material informations by which the claim of the petitioners/plaintiffs would be strengthened, the court did not feel it proper and necessary to take the said document on record and the court felt that the said application is being moved with an intention of further delaying the suit and accordingly, the same was rejected.

6. On due consideration of the facts and circumstances of the case, this Court is of the opinion that there appears to be no infirmity in the order passed by the court below while rejecting the application under Order 7 Rule 14 CPC calling for interference its extraordinary writ supervisory jurisdiction under Article 227 of Constitution of India.

7. For the foregoing reasons, the instant Writ Petition fails and is accordingly dismissed.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioners

VERSUS

Murari Lal Sahu and another

Oral Order (13.02.2015)

3. Contention of counsel for the petitioners is that the petitioners/plaintiffs had only wanted the said document to be taken on record so that their claim before the court below gets further substantiated

and on the basis of which the court below could have adjudicated upon the dispute in a better manner but denial of the same has substantially affected their rights and therefore, they have moved this petition seeking for allowing of the said application and the document may be allowed to be taken on record.

4. Counsel for the respondents however opposed the said prayer of the petitioners contending that the petitioners have moved the said application with an oblique intention of delaying tactics in the final adjudication of the suit. The respondents further contended that the petitioners/plaintiffs had never filed the suit relying upon the said document which they intend to bring it on record neither they made any reference in respect of the said document and suddenly they, after the evidence has been concluded, are now trying to bring this document on record. It is further contended that the said document was already in existence when the suit itself was filed and that the petitioners/plaintiffs were well aware of the said document and the contents thereof, they could have well relied upon the said document while making the basis of filing the suit. Having not done so itself shows that the case of the petitioners/plaintiffs was not on the basis of the said document and thus the respondents prayed for rejection of the petition.

5. Having considered the submissions made by either side and after perusing the record, it is reflected that in the application under Order 7 Rule 14 CPC, the petitioners/plaintiffs have not disclosed material details about the documents as to why the said document was not relied upon while filing of the suit and why their suit was not based upon the said document and further, they have also not explained as to the necessity of bringing this document on record. It would further be trite to mention that the court below has taken these facts into consideration while deciding

the said application and has held that since the said document does not disclose material informations by which the claim of the petitioners/plaintiffs would be strengthened, the court did not feel it proper and necessary to take the said document on record and the court felt that the said application is being moved only with an intention of further delaying the suit and accordingly, the same was rejected.

6. On due consideration of the facts and circumstances of the case, this Court is of the opinion that there appears to be no infirmity in the order passed by the court below while rejecting the application under Order 7 Rule 14 CPC calling for interference exercising its extraordinary powers of writ of supervisory jurisdiction under Article 227 of Constitution of India.

7. For the foregoing reasons, the instant Writ Petition fails and is accordingly dismissed.

J U D G E

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner South Eastern Coalfields Ltd.

Respondents Municipal Council, Chirmiri and others

Oral Order
(03.02.2015)

The instant writ petition has been preferred by the management of South Eastern Coalfields Limited challenging the demand notice (Annexures P-1 & 2) whereby the respondent/Municipal Council subsequently upgraded as Municipal Corporation has issued demand notice claiming an amount of Rs.1,07,07,078 for Kurasia Colliery and Rs.1,14,76,962 for Chirmiri area of South Eastern Coalfields Limited towards property tax.

2. According to counsel for the parties, the undisputed fact is that the said demand notice is by way of an enhancement of property tax raised by the Special Area Development Authority, Chirmiri and also on account of alleged wrong assessment made under self assessment by the petitioner.

3. According to counsel for the petitioner, the demand notice suffers two major flaws, firstly, the enhancement of the property tax to 10% vide notification dated 28.8.97 (Annexure P-7) is contrary to law on account of the fact that SADA Chirmiri was not in existence as it stood dissolved vide notification dated 22.6.1995. The 2nd flaw, according to counsel for the petitioner is that the assessment arrived at by the respondents assessing the property tax for Kurasia area of Rs.1,07,07,078 and for Chirmiri area of Rs.1,14,76,962 is without any proper analysis or taking into consideration the actual land and buildings which were under occupation and use by the petitioner/Establishment and therefore, the impugned demand notice deserves to be set aside. He also contended that the

appeals dated 21.4.98 (Annexure P-3) and 6.5.98 (Annexure P-4) preferred by the petitioner have also been decided in a hasty manner without a speaking order and no sufficient opportunity of hearing to substantiate the petitioner's contentions in the appeals was provided and the appeal was rejected vide orders dated 27.5.98 (Annexures P-5 and P-6)

4. On the other hand, counsel for the respondents submits that so far as the levy of property tax upon the petitioner/Establishment is concerned, the law in this regard has already been settled by the decision of Supreme Court rendered in the matter of **Western Coalfields Limited vs. Special Area Development Authority, Korba and another** and **Bharat Aluminium Company Limited vs. Special Area Development Authority, Korba and others** reported in **(1982) 1 Supreme Court Cases 125** and the said view of the Supreme Court has further been reiterated in a subsequent decision rendered in the matter of **Western Coalfields Limited vs. Municipal Council, Birsinghpur Pali and another** reported in **(1993) 3 Supreme Court Cases 290** and as such so far as the levy of property tax is concerned, the issue stands decided that the petitioner/Establishment is liable to pay property tax for the property in their occupation. So far as the impugned order of the appellate authority Annexure P-5 & P-6 is concerned, a perusal of these two orders clearly demonstrate that the appellate authority has not decided the appeal of the petitioner/Establishment objectively giving reasons and also giving explanation to the contentions put forth by the petitioner and thus for the reason that it is not a speaking order, the two orders, being unsustainable, the same are set aside. So far as the assessment of the property tax as per Annexure P-1 & P-2 is concerned, counsel for the respondents fairly submits that this aspect can be looked into by the competent authority with the cooperation of the petitioner/Establishment on their appearing before the appellate authority and showing all the relevant documents in respect of the property in their possession. Accordingly, at this juncture, the matter is remitted back to the appellate authority for deciding the appeal preferred by the petitioner vide Annexures P-3 & 4 objectively taking into consideration all the relevant facts which the petitioner/Establishment have raised in their appeal.

5. Needless to mention that the parties would be given an opportunity of hearing by the appellate authority and in due course of hearing of the

appeal, they would be at liberty to produce all the relevant documents to substantiate their respective contentions.

6. With the aforesaid observation, the appellate orders dated 27.5.98 (Annexures P-5 and P-6) having been set aside, the instant Writ Petition is disposed of with a direction to the appellate authority to decide the appeal afresh within a period of 6 months from the date of receipt of the order of this Court. It is expected that the appellate authority shall decide the appeal objectively and by a speaking order.

7. Meanwhile, the respondents during the pendency of the appeal before the appellate authority, are restrained from taking any coercive action towards execution of Annexures P-1 & P-2.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioners

VERSUS

Registrar and another

Oral Order
(03.02.2015)

By way of the instant petition, the petitioner has questioned the action on the part of the respondents dated 20.01.1995 (Annexure P-5) wherein the Registrar, Public Trust i.e. the Collector, Bilaspur had appointed an Administrator for looking after the affairs of the Trust.

2. Counsel for the petitioners submits that on an earlier occasion also, an order in this regard was also passed on 9.5.1994 which was put to challenge in writ petition i.e. Writ Petition No.2241/1994 and the High Court of Madhya Pradesh, vide its order dated 28.06.1994, had directed the Registrar, Public Trust under the Public Trust Act, that before giving effect to the order dated 9.5.1994, it should fix the case before him after affording full opportunity to the petitioner on the alleged various complaints received by the Registrar.

3. According to the petitioners, without affording an opportunity of hearing contrary to the directives given by the High Court in Writ Petition No.2241/94 vide order dated 28.6.1994, the Registrar has now passed the impugned order dated 20.01.1995. He further submits that the said impugned order dated 20.01.1995 was put to challenge by the instant writ petition and this court, vide its order dated 06.02.1995, had ordered to maintain status quo and till date, the said interim order dated 6.2.95 is in operation. Meanwhile, the Trust was being managed and operated by the trustees appointed therein. He further submits that on 14.11.07, this

Court had granted an opportunity to the State to inspect and verify the statements of the accounts of the Trust and thereafter to file a report in this regard.

4. The State, in compliance of the order dated 14.11.2007, had directed the Sub Divisional Officer (Revenue), Distt. Janjgir to get the inspection/verification of the records of the Trust done and the Sub Divisional Officer (Revenue) in turn, had engaged one Madanlal Agrawal, Chartered Accountant, Bilaspur for audit and for submission of a special audit report for the financial year 1996-97 to 2005-06.

5. The said Chartered Accountant, vide his report dated 23.02.2008, had submitted a special audit report to the Sub Divisional Officer (Revenue), Janjgir who has also, by then become the Registrar, Public Trust, Janjgir and the said report was taken note of by the Sub-Divisional Officer (Revenue) and Registrar, Public Trust, Distt. Janjgir had in turn, submitted a report dated 11.4.2008 (Annexure-C).

6. A perusal of the special audit report of the Chartered Accountant as well as the report submitted by the Sub-Divisional Officer and Registrar, Public Trust, Janjgir shows that there was no anomaly or irregularity detected in the course of conducting the audit pertaining to the statements of accounts of the Trust and therefore, it does not appear that there was any sort of irregularity or embezzlement in the accounts of the Trust which could have been detected.

7. In the light of the said report, it appears that the impugned order dated 20.01.1995 was apparently passed in total contravention to the directives given by the High Court in Writ Petition No.2241/1994 and therefore, the same is not sustainable.

8. The State counsel also accepts the fact that after the High Court having disposed of the earlier Writ Petition i.e. W.P. No.2241/94, the petitioners were never given an opportunity of hearing to explain on the alleged complaints which the Registrar had received and that no subsequent inquiry or an investigation has been conducted by the Registrar before the impugned order (Annexure P-5) was passed.

9. In the light of the submission of the State counsel and also taking note of the fact that the matter is pertaining to the year 1995 and by virtue

of the interim order dated 6.2.95, status quo in respect of the affairs of the Trust was being taken care of by the trustees and the statements of accounts of the Trust for the year 1996-97 to 2005-06 also could not point out any irregularity in the statements of the accounts of the Trust. Thus, this Court is of the opinion that no fruitful purpose would be served in case the impugned order dated 20.1.995 (Annexure P-5) is continued. Accordingly, the same deserves to be and is accordingly set aside/quashed.

10. Needless to mention that it is expected that the Trustees shall continue to abide by the provisions of the Public Trust Act without fail.

11. With the above observation, the instant Writ Petition stands allowed and disposed of. No order as to costs.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioners Chamar Singh Sarthi and others

Respondents State of Chhattisgarh and others

5. In view of above, this Court is of the opinion that ends of justice would be served if, at this juncture, the petitioners are directed to move to the respondents by making a fresh representation raising their claims for regularization giving full details on the basis of which they are claiming

the benefit of regularization within a period of 15 days from today and on such representation being made, the State Government shall take a decision on its own merits within a further period of 3 months from the date of receipt of the representation.

6. Needless to mention that it is expected that the State Government would objectively decide the representation moved by the petitioners.

7. With the above observation, the instant Writ Petition stands disposed of.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Dr. C.L. Gawade

Respondents State of Chhattisgarh and others

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Gayaprasad Pandey

Respondents State of Chhattisgarh and others

4. Taking into consideration the facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the petitioner is directed to approach the authority concerned by moving a fresh representation within a period of 2 weeks from today in respect of his contentions and the State Government, in turn shall take decision on the

representation so filed by the petitioner within a further period of 2 months. Till then, it is expected that the State Government shall not give effect to the impugned order dated 20.01.2015 (Annexure P-1).

5. With the above said observation, the instant Writ Petition stands disposed of.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioners Vijay Kumar Dubey and others

Respondents State of Chhattisgarh and another

Oral Order
(30.01.2015)

The instant petition has been filed with a limited prayer of a writ in the nature of mandamus to be issued to the respondents to decide the representation which the petitioners have preferred.

2. The grievance of the petitioners is that the petitioners who are the Govt. Teachers, had made a representation to the State Government for considering their case for promotion to the higher post in accordance with the judgment rendered in the matter of **Suraj Bhan Meena and Another vs. State of Rajasthan and Others** reported in **(2011) 1 Supreme Court Cases 467**.

3. State counsel, without entering into the merits, submits that so far as the prayer for deciding the representation of the petitioners is concerned, the State does not have any objection.

4. In the light of the submissions made by counsel for the parties, the writ petition stands disposed of with a direction to the State Government to consider the representation moved by the petitioners in accordance to its merits as expeditiously as possible.

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Suresh Kumar Vishwakarma

Respondents Municipal Corporation and another

Oral Order
(23.01.2015)

4. In the given facts and circumstances of the case, the instant writ petition is disposed of with a direction that respondent No.1 as well as respondent No.2 both shall take a prompt and appropriate decision on the representation so made by the petitioner in this regard, keeping in view the provisions of law particularly Section 286 of the Municipal Corporation

Act.

5. Needless to mention that in case the petitioner intends, he may file a fresh representation bringing the entire details of objections to the notice of the authorities concerned in his representation.

6. It is also expected that on receipt of the representation, respondent No.1 shall take decision on the said representation preferably within a period of 4 weeks from today.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner The Supela Housing Co-operative Society Limited through its President.

Respondents State of Chhattisgarh and others

Oral Order
(23.01.2015)

6. With the aforesaid observation, the instant Writ Petition stands disposed of.

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Sahab Ali

Respondents State of Chhattisgarh and others

Oral Order (23.01.2015)

4. Counsel for the Election Commission, at this juncture relies upon the judgment rendered in the matter of **Election Commission of India**.

thorough Secretary vs. Ashok Kumar and Others reported in **(2008) 8 Supreme Court Cases 216** wherein in para 32(1), it has been held in very categorical terms as under:-

“If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.”

5. In the light of the observations made by the Supreme Court in the aforesaid judgment and taking into consideration the fact that the elections are to be held on 28.02.2015, this Court is of the opinion that the instant petition, at this juncture, would not be sustainable and the same deserves to be and is rejected.

6. Needless to mention that in case the petitioner has a remedy available, he would be at liberty to avail the same in accordance with law.

7. With the aforesaid observation, the instant Writ Petition stands disposed of.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioners Smt Smita Tiwari

Respondents State of Chhattisgarh and another

Oral Order (21.01.2015)

5. To this, the State counsel does not have any objection.

6. Without expressing any opinion on the merits of the case, this Court feels that ends of justice would meet in case the petitioner is directed to make a fresh representation to the respondents within a period of 3 weeks from today and on such representation being made, the State Government would take a decision in accordance with law applicable on its own merits within a further period of 3 months from the date of filing of the writ petition.

7. With the aforesaid direction, the writ petition is accordingly disposed of.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioners Smt Aradhana Jha

Respondents State of Chhattisgarh and another

Oral Order (21.01.2015)

5. To this, the State counsel does not have any objection.

6. Without expressing any opinion on the merits of the case, this Court feels that ends of justice would meet in case the petitioner is directed to make a fresh representation to the respondents within a period of 3 weeks from today and on such representation being made, the State Government would take a decision in accordance with law applicable on its own merits within a further period of 3 months from the date of filing of the writ petition.

7. With the aforesaid direction, the writ petition is accordingly disposed of.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Rajendra Prasad Tiwari

Respondents South Eastern Central Railways
and others

Oral Order (21.01.2015)

3. In view of the same, the instant writ petition is dismissed as not maintainable reserving the right to the petitioner to avail the remedy available to him under the provisions of the Administrative Tribunal's Act before the appropriate Tribunal.

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Dey Singh

Respondents State of Chhattisgarh and others

Single Bench: Hon'ble Shri Justice P. Sam Koshy

<u>Petitioners</u>	Smt Pramila Singh and another
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Respondents State of Chhattisgarh and another

Oral Order (21.01.2015)

4. At this juncture, counsel for the petitioners makes a request that the petitioners have already made a representation to respondent No.2 but till date, the same has not been decided and the grievance of the petitioners would be redressed in case the State Government takes a decision on the said representation.

5. To this, the State counsel does not have any objection.

6. Without expressing any opinion on the merits of the case, this Court feels that ends of justice would meet in case the petitioners are directed to make a fresh representation to the respondents within a period of 3 weeks from today and on such representation being made, the State Government would take a decision in accordance with law applicable on its own merits within a further period of 3 months from the date of filing of the writ petition.

7. With the aforesaid direction, the writ petition is accordingly disposed of.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Writ Petition (S) No. 163 of 2015

Petitioner Bhajan Lal Gupta and others

VERSUS

Respondents State of Chhattisgarh and others

Present: Shri KA. Ansari, Sr. Advocate with Shri Devesh Kela, counsel
for the petitioners.
Shri PK. Bhaduri, GA for the State.

Oral Order (21.01.2015)

Shri Ansari submits that the petitioners in the instant petition, have already got an order in their favour by the writ court in an earlier round of litigation i.e. W.P. No.160/2002 vide judgment dated 20.02.2006 and the said order has attained finality. At this juncture, he submits that though the petitioners have filed a contempt petition for non-compliance of the order dated 20.02.2006 but the same has been dismissed and the fact remains that till date, the order dated 20.2.06 has not been implemented by the State Government and it is for these reasons that the present writ petition has been filed with a prayer that the State should comply with the order at the earliest.

2. Needless to mention that the settled position of law is that the writ petition for execution of earlier judgment in a writ petition would not be maintainable. At this juncture, Shri Ansari submits that he does not want to press the writ petition on merits and prays that he may be directed to withdraw the petition with a liberty to approach the respondents by way of a fresh representation claiming the right which the petitioners have accrued in their favour by virtue of order passed in WP. No.160/02 dated 20.02.2006.

3. To this, the State counsel does not have any objection.

4. Accordingly, the instant Writ Petition stands dismissed as withdrawn with liberty to the petitioners to approach the respondents by way of making a fresh representation and on such representation being made, the same may be considered on its own merits at the earliest, preferably within a period of 6 months.

JUDGE

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner G.P. Kumbhare

Respondents State of Chhattisgarh and others

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Lohar Sai

Respondents State of Chhattisgarh and others

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Padum Pratap Singh Paikra

Respondents State of Chhattisgarh and others

Oral Order
(21.01.2015)

2. The grievance of the petitioner is that presently, respondent No.4 has been made In-Charge of Dharamjaigarh Block and he is a person who is much junior to the petitioner and that though the petitioner is posted in the same Division, but he is not being considered for being posted as Asstt. Engineer at Dharamjaigarh Block.

3. In view of above, the instant petition is disposed of with a direction to the petitioner to make a fresh representation raising his grievance to respondents No.2 & 3 who in turn, shall decide the same in accordance with law on its own merits.

4. Needless to mention that this Court has not expressed any opinion on the merits of the case and in case the petitioner makes a representation within a period of 3 weeks from today, the State Government, on receipt of the said representation, shall take a decision on the same within a period of 4 months from the date of receipt of the representation.

JUDGE

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Smt. Shyam Bai

Respondents State of Chhattisgarh and others

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Smt. Pushpa Dhruv

Respondents State of Chhattisgarh and others

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Sakharam Kunjam

Respondents State of Chhattisgarh and another

5. Needless to mention that in the event the State finds that the case of the petitioner is similar to the one decided by this Court in WP. No.1164/2006, the petitioner would also be entitled for the same benefits

which may be extended to the petitioner in WP. No.1164/2006. However, in case the State Government finds that the case of the petitioner is not similar and identical to the petitioner in WP. No.1164/2006, the representation of the petitioner may be decided accordingly by passing a speaking order intimating the petitioner the reasons for which he is not entitled for the relief sought for.

6. In the light of above, the writ petition stands disposed of. No order as to costs.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Both Ram Paikra

VERSUS

Present: Shri Jitendra Shrivastava, counsel for the petitioner,
Shri Siddharth Rathore, Dy. GA for the State/respondent
Nos.1, 3, 4 & 5.
Shri Ranbir Singh Marhas, counsel for respondent No.2.

By way of the instant Writ Petition, the petitioner has questioned the action on part of respondent No.5 in canceling his nomination paper for the post of Surpanch, Gram Panchayat, Udari.

3. Shri Marhas submits that from the record, it appears that the nomination paper of the petitioner has been wrongly rejected and now the only recourse available to the petitioner is that of preferring an election petition and as such the instant petition is not maintainable. He refers to a decision rendered in the matter of **Boddula Krishnaiah and Another vs. State Election Commissioner, A.P** reported in ***(1996) 3 Supreme Court Cases 416*** wherein, in paragraphs 11 & 12, it has been categorically held that once an election process has been set in motion, though the High Court may entertain or may have already entertained a writ petition, it would not be justified in interfering with the election process giving direction to the election officer to stall the proceedings or to conduct the election process afresh.

4. Considering the total facts and circumstances of the case and also taking into consideration the fact that in the instant case also, since when the election process has already started, it would not be proper at this stage for this Court to exercise its writ jurisdictional power by interfering with the same.

5. It is always open for the petitioner, at the given point of time to file an election petition challenging the action of respondent No.5.

6. With the aforesaid direction, the instant Writ Petition is disposed of as not maintainable, reserving the liberty for the petitioner to prefer an election petition if he so chooses.

J U D G E

Priya

Single Bench: Hon'ble Shri Justice P. Sam Koshy

Petitioner Smt. Lata Singh

Respondents State of Chhattisgarh and others

Oral Order
(16.01.2015)

4. In view of the same, nothing remains to be adjudicated upon. The Writ Petition is disposed of at this juncture with a direction to respondent No.3 to decide the Writ Petition in respect of Shop No.3, which is constructed by Janpad Panchayat, Sonhat in front of the Community Health Center, preferably within a period of 3 months from today.

Priya

