

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5065 of 2009**

Nimai Sana S/o Late Adhir Sana, aged about 41 years, Working as Panchayat Secretary, Gram Panchayat, Koigaon, Janpad Panchayat Koilibeda, District Uttar Bastar, Kanker Chhattisgarh.

---- Petitioner**Versus**

- 1.State of Chhattisgarh, Through Secretary, Government of Chhattisgarh, Panchayat & Social Welfare Department, DKS Bhawan, Raipur, Chhattisgarh.
- 2.The Collector, District Kanker, Chhattisgarh.
- 3.Dy. Director, Panchayat & Social Welfare Department, Kanker, Chhattisgarh.
- 4.Sarpanch, Gram Panchayat, Satyanagar Block Koalibeda, District Bastar, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Vivek Verma, Advocates
For Respondents/State	: Shri Prafull N Bharat, Additional Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice**Order on Board****10/05/2016**

1. Heard Learned Counsel for the Petitioner and Learned Additional Advocate General on behalf of the State.
2. The Petitioner is aggrieved by order dated 22.7.2009 cancelling the permission granted to him as Panchayat Secretary under Section 69(1) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (hereinafter called 'the Act').
3. Learned Counsel for the Petitioner submits that the order dated 19.6.1997 appointing him as Panchayat Secretary under Section 69(1) of the Act, was a substantive appointment. The order did not state that the Petitioner was being given additional charge of the post while holding the substantive post of Panchayat Karmi. The impugned order therefore *per se* suffers from illegality when it states that the permission given to work as Panchayat Secretary was being cancelled. The impugned order visits the Petitioner with civil consequences when it states

that he was being removed from the post of Panchayat Secretary on the allegation of financial irregularities without compliance of the procedure under Rule 7(1) of the Chhattisgarh Panchayat Services (Discipline & Appeal) Rules, 1999 (hereinafter called 'the Rules').

4. Learned Additional Advocate General submitted that the Petitioner was never appointed as Panchayat Secretary but was only permitted to discharge duties while holding the post of Panchayat Karmi.

5. The Court finds that Section 69(1) of the Act specifically provides for appointment of a Secretary of a Gram Panchayat. The order dated 19.6.1997 does not restrict or limit appointment of the Petitioner in any manner much less does it give him incharge capacity of the post only.

6. The English meaning of the word "घोषणा" is declaration. The order dated 19.6.1997 declares the Petitioner as Panchayat Secretary in exercise of statutory powers. Any deprivation of the same therefore amounts to reduction in rank, a major penalty under Rule 7(1) read with 5(b)(iv) of the Rules. The statutory procedure prescribed under Rule 7 of the Rules has evidently not been complied with before removing him from the post also casting aspersions with regard to financial irregularities. The order dated 22.7.2009 is therefore held to be not sustainable in its present form. The interim order dated 7.9.2009 is made absolute but without prejudice to the rights of the Respondents/State to proceed afresh in accordance with law.

7. The writ petition is allowed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE