

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2013 of 2016**

- Chhat Lal Patle (Wrongly mentioned in order sheet Chhat Lal Latle) S/o Rati Ram Patle Aged About 42 Years Sarpanch Gram Panchayat Jarve (B), Janpad Panchayat Baloda, Tahsil Baloda, District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Panchayat & Rural Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, Police Station Rakhi, District Raipur Chhattisgarh.
2. The Collector Janjgir Champa District Janjgir Champa Chhattisgarh.
3. The Sub Divisional Officer (Revenue) Champa, District Janjgir Champa Chhattisgarh.
4. The Tahsildar Janjgir District Janjgir Champa Chhattisgarh.
5. Chief Executive Officer Janpad Panchayat Baloda, District Janjgir Champa Chhattisgarh.
6. Jageshwar Prasad Kurrey S/o Shri Netram Kurrey Aged About 42 Years Caste Satnami, R/o Village Jarve (B), Police Station Baloda, Tahsil Baloda, District Janjgir Champa Chhattisgarh.
7. Mohit Ram Kurrey S/o Shri Hari Ram Kurrey Aged About 38 Years Caste Satnami, R/o Village Jarve (B), Police Station Baloda, Tahsil Baloda, District Janjgir Champa Chhattisgarh.
8. Anil Kumar Miri S/o Shri Balram Prasad Miri Aged About 48 Years Caste Rohidas, R/o Village Jarve (B), Police Station Baloda, Tahsil Baloda, District Janjgir Champa Chhattisgarh.

---- Respondents

For Petitioner	:	Shri P.K.Patel, Advocate
For Respondents/State	:	Shri B. Gopa Kumar, Deputy Advocate General

HON'BLE SHRI JUSTICE PRASHANT KUMAR MISHRA**Order On Board****09/08/2016**

Heard.

2. Petitioner is Sarpanch of Gram Panchayat Jarve (B), Janpad Panchayat Balod, District Janjgir-Champa. He has called in question the order captioned as "*Prarambhik Aadesh*" passed by the Prescribed Authority, i.e., Sub Divisional Officer (Revenue), on 25.7.2016 whereby the said Officer has directed for issuance of show-cause notice against the petitioner as to why he should not be removed from the Office of Sarpanch.

3. Referring to the order sheets of the proceedings drawn by the Sub Divisional Officer (Revenue), Champa (Annexure P/4), it is argued that till 23rd May, 2016, the proceedings were fixed for final arguments, however, thereafter it was posted for preliminary order, therefore, the proceeding is irregular being contrary to Section 40 of the Chhattisgarh Panchayati Raj Adhiniyam, 1993 (for short 'the Adhiniyam'). He would submit that before proceeding reasonable opportunity of being heard is not afforded to the petitioner. It is also argued that preliminary order has been passed to fill up lacuna in the case.

4. It appears, the matter was earlier fixed by the competent authority for final orders, but, thereafter it was posted for preliminary order probably because the competent authority wanted to assess the impact of the order passed by this Court on 03.08.2015 in WPC No.1336/2015 so that he may not commit contempt of the lawful authority of this Court. Once having ascertained that this Court has only stayed the lodging of F.I.R. but the proceedings under Section 40 of the Adhiniyam have not been stayed or interfered, the S.D.O. (Revenue) has passed the preliminary order and has directed to issue show-cause notice to the petitioner.

5. If an authority, by way of abundant caution decides to proceed with the matter after carefully examining the order passed in the writ petition, no fault could be found with the procedure adopted otherwise he may be accused of proceedings in hot haste to circumvent the order passed by this Court.

6. In any case, the impugned order is not adverse to the petitioner, inasmuch as, prior to this order also the petitioner was also issued a show-cause notice as to why he should not be removed from the Office of Sarpanch and the situation has not changed despite passing of the impugned order.

7. There is no substance in this petition, which deserves to be and is hereby dismissed.

Sd/-
Judge
(**Prashant Kumar Mishra**)