

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2606 of 2016

- Tiharin Bai W/o Shri Kanhaiya Lal Kanwar, Aged About 30 Years
Caste Kanwar, Sarpanch- Gram Panchayat Tuman R/o Tuman,
Tehsil Kartala, Distt. Korba (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Social
Welfare Department, Mahanadi Bhawan, Raipur (Chhattisgarh)
2. Sub Divisional Officer (Revenue), Korba, District Korba,
Chhattisgarh.
3. Naib Tahsildar, Tehsil Barpali, Distt. Korba (Chhattisgarh)
4. Chief Executive Officer, Janpad Panchayat, Karatala, Distt.
Korba (Chhattisgarh)
5. Gram Panchayat- Tuman Through Its Secretary, Janpad
Panchayat Kartala, Distt. Korba (Chhattisgarh)
6. Dhan Kunwar, Janpad Member, Ward No. 11, Tuman, Janpad
Panchayat Kartala, Distt. Korba (Chhattisgarh)
7. Ramjaan Khan, Up Sarpanch, Gram Panchayat Tuman, Tehsil
Barpali, Distt. Korba (Chhattisgarh)
8. Babul Lal Kanwar, Panch, Gram Panchayat Tuman,
9. Purushottam Chandra, Panch, Gram Panchayat Tuman,
10. Kaushal Prasad, Panch Gram Panchayat Tuman,
11. Sushila Bai, Panch- Gram Panchayat Tuman,
12. Hira Bai, Panch- Gram Panchayat Tuman,
13. Chameli Bao, Panch- Gram Panchayat Tuman,
14. Smt. Nitu Goswami, Panch- Gram Panchayat Tuman,
15. Smt. Fuleshwari Bai, Panch- Gram Panchayat Tuman,
16. Mahentarin Bai, Panch- Gram Panchayat Tuman,
17. Ful Singh, Panch- Gram Panchayat Tuman,
18. Uma Bai, Panch- Gram Panchayat Tuman,

19. Lalita Paikara, Panch- Gram Panchayat Tuman,

All from 8 to 19 are the R/o Gram Panchayat Tuma, Tehsil
Kartala, Distt. Korba (Chhattisgarh)

20. Kayyum Hussain, Oncharge Panchayat Inspector, Janpad
Panchayat Kartala, Distt. Korba (Chhattisgarh)

---- Respondent

For Petitioner	Mr. Sanjay Patel, Advocate
For Respondent/State	Mr. Vinod Deshmukh, Dy. GA

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

26/10/2016

1. Heard.
2. This petition is preferred against the show cause notice issued to the petitioner under Section 40 of the Panchayat Raj Adhiniyam, 1993 (in short "the Adhiniyam").
3. It is argued that the show cause notice is based on an enquiry, in which, the petitioner has not been heard, therefore, there is violation of principles of natural justice as also guidelines issued by the State Government.
4. The proceedings before the competent authority is still pending consideration, wherein, the petitioner would get ample opportunity to defend her case.
5. A preliminary enquiry is only to ascertain as to whether any *prima facie* material for issuing notice under Section 40 of the Adhiniyam is available or not. In the absence of such exercise, it may always be said that there is no material against the petitioner which can form the basis for issuance of notice under

Section 40 of the Adiniam. The preliminary enquiry is not by itself any proceeding under Section 40, therefore, even if no opportunity has been granted in the preliminary enquiry, it would not occasion failure of justice as long as the petitioner is issued a notice by the Prescribed Authority before proceeding to pass any final order under Section 40 of the Adhinyam.

6. The guidelines issued by the State Government has no statutory force. When the matter is still pending and the petitioner has been issued show cause notice, there does not appear to be any violation of principles of natural justice.
7. For the foregoing, no case for interference is made out in this petition. The Prescribed Authority shall decide the proceeding after giving proper opportunity of hearing to the petitioner.
8. The writ petition is dismissed, subject, however to the above observation.

Sd/-

Judge

(Prashant Kumar Mishra)

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