

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2307 of 2015

- Smt. Pushpa Sahu W/o Jageshwar Sahu, Aged About 29 Years R/o Village Kirvai, Post Damakheda, P.S. Simga, District Baloda Bazar Bhatapara Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat & Rural Development Department, Mahandi Bhawan, New Raipur Chhattisgarh
2. Sub Divisional Officer/prescribed Authority (Panchayat), Simga, District Baloda Bazar Bhatapara Chhattisgarh
3. Chief Executive Officer, Janpad Panchayat Simga, District Baloda Bazar Bhatapara Chhattisgarh
4. Chief Executive Officer, Zila Panchayat Baloda Bazar, District Balodabazar Bhatapara Chhattisgarh

---- Respondent

And

WPC No. 563 Of 2014

- Smt.Rashmi Sahu W/o Rajesh Sahu Aged About 35 Years R/o Village And Post Damakheda, PS and Tah Simga, Civil & Revenue Distt Baloda Bazar-Bhatapara, Cg

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Panchayat & Rural Development Department, Mahanadi Bhawan, New Raipur, Distt Raipur, CG
2. Sub Divisional Officer/ Prescribed Authority (Panchayat), Simga, Distt Baloda Bazar- Bhatapara, CG
3. Chief Executive Officer, Janpad Panchayat Simga, Distt Baloda Bazar-Bhatapara, CG

---- Respondent

For Petitioners	Mr. R. Pradhan, Advocate
For Respondent /State	Mr. R. Tripathi, Panel Lawyer
For Respondent No. 3	Mr. Atanu Ghosh, Advocate

(in WPC No.563/2014)

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/1/2016

Affidavit has been filed by respondent No.3 in WPC No.563 of 2014, therefore, the default stands cured.

(2) Heard finally with the consent of learned counsel for the parties.

(3) Petitioner Smt. Pushpa Sahu is the Sarpanch of Gram Panchayat Kirvai, whereas, petitioner Rashmi Sahu is the Sarpanch of Gram Panchayat, Damakheda. They have assailed the legality and validity of the similar notice issued to each one of them by the SDO(R)-cum-Prescribed Authority (P), Simga District Baloda Bazar, Bhatapara under Section 40 of the Panchayat Raj Adhiniyam, requiring them to show cause as to why they should not be removed from the office of Sarpanch.

(4) Mr. Pradhan, learned counsel for the petitioners, would submit that the show cause notice does not narrate in detail the nature of allegations or the charges levelled against the petitioners, therefore, the notice is as vague as it could be and the proceedings under Section 40 of the Panchayat Raj Adhiniyam cannot be initiated in such manner. He would refer to the law laid down by this Court in the matter of **Radhe Shyam Singh Rajput Vs. State of Chhattisgarh and others** (WPC No.1902 of 2014 decided on 17.11.2014), wherein, it has been

held that notice under Section 40 of the Adhiniyam should always accompany the charges levelled against the Sarpanch.

(5) Per contra, Mr. Tripathi, learned Panel Lawyer and Mr. Atanu Ghosh, learned counsel for respondent No.3 in WPC No.563 of 2014 would contend that the show cause notice itself states that the enquiry report is attached with the notice. Therefore, since the enquiry report contains the charges, it cannot be said that the petitioners have not been made aware of the charges.

(6) For drawing a proceeding under Section 40 of the Adhiniyam, the Prescribed Authority has to be satisfied that there exists grounds/facts which narrates initiation of proceedings against the Sarpanch or any other office bearer of the Panchayat. If the office bearer is not made aware of the charges levelled against him, it would be violative of principles of natural justice, inasmuch as, he would not be in a position to properly defend himself.

(7) For the foregoing, the writ petition is disposed of with a direction that the SDO(R) Simga shall inform the petitioners about the charges, on which, the proceedings under Section 40 of the Adhiniyam is based. On issuance of such charges, the petitioners may file detailed reply to the charges and thereafter, the proceedings shall continue in accordance with law.

Sd/-

Judge

(Prashant Kumar Mishra)