

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3075 of 2016**

- Smt. Madhu Patel W/o Mr. Madan Patel, Aged About 29 Years Ex Sarpanch Of Gram Panchayat Amaldihi, R/o Village Amaldihi, Tehsil Lormi, District Mungeli (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh Through Collector, District Mungeli (Chhattisgarh)
2. Additional Commissioner, Division Bilaspur (Chhattisgarh)
3. Additional Collector, Mungeli District Mungeli (Chhattisgarh)
4. Sub Divisional Officer, Lormi, District Mungeli (Chhattisgarh)
5. Smt. Shukvariya Sahu W/o Mr. Sarosa Sahu, Aged About 32 Years Acting Sarpanch Of Gram Panchayat Amaldihi, Janpad Panchayat Lormi, District Mungeli (Chhattisgarh), R/o Village Amaldihi, Tehsil Lormi, District Mungeli (Chhattisgarh)
6. Santram Patel S/o Mr. Moti Lal Patel, Aged About 36 Years Panch Of Ward No. 05, Gram Panchayat Amaldihi, Janpad Panchayat Lormi, District Mungeli (Chhattisgarh), R/o Village Amaldihi, Tehsil Lormi, District Mungeli (Chhattisgarh)
7. Shiv Prasad Satnami S/o Mr. Janak Satnami, Aged About 40 Years Panch Of Ward No. 09, Gram Panchayat Amaldihi, Janpad Panchayat Lormi, District Mungeli (Chhattisgarh), R/o Village Amaldihi, Tehsil Lormi, District Mungeli (Chhattisgarh)
8. Sarosa Ram Sahu S/o Mr. Jhagar Ram Sahu, Aged About 35 Years R/o Village Amaldihi, Tehsil Lormi, District Mungeli (Chhattisgarh)
9. Surit Ram Sahu, S/o Mr. Maharaji Sahu, Aged About 65 Years R/o Village Amaldihi, Tehsil Lormi, District Mungeli (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Achyut Tiwari, Advocate
For Respondents-State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

15/12/2016

1. Shri Achyut Tiwari, learned counsel for the petitioner would argue that by order dated 09.05.2016 the petitioner was removed from the office of Sarpanch, of Gram Panchayat, Amaldihi, Janpad Panchayat, Lormi, District Mungeli, against which the petitioner preferred an appeal before the Additional Collector, Mungeli, wherein vide order dated 10.08.2016, the order passed by the Sub-Divisional Officer (R), Lormi (for short 'the SDO') was set aside and the petitioner was reinstated, however, respondents No.5 to 9 preferred a revision before the Additional Commissioner, Bilaspur Division, Bilaspur despite not being party in the proceedings either before the SDO or before the Additional Collector, Mungeli, therefore, the revision application was not maintainable. He would further submit that the petitioner has constructed all the toilets in her panchayat area under the Swachha Bharat Mission, therefore, the allegations were without any foundation. He would refer to the letter issued by the CEO, Janpad Panchayat, Lormi on 01.08.2016 to substantiate the argument.
2. It appears, when the order of removal was passed by the SDO on 09.05.2016, the letter issued by the CEO, Janpad Panchayat, Lormi on 01.08.2016 was not in existence, therefore, at the first instance, if the Additional Collector proceeded to rely on the argument, it should have remitted the matter back to the SDO rather than allowing the appeal on the basis of any subsequent communication/document. The Additional Commissioner has committed the same mistake firstly by entertaining the revision on behalf of the persons who were not party to the original proceedings and secondly by stating that the letter dated 01.08.2016 alone could not have been made basis for allowing the appeal.
3. Having heard learned counsel for the parties, this Court is of the considered

view that both the authorities i.e. the Additional Commissioner, Bilaspur Division and Additional Collector, Mungeli should have remitted the matter back to the SDO for holding proper enquiry in the matter and in view of subsequent evidence in form of letter issued by the CEO, Lormi on 01.08.2016. Accordingly, the writ petition is allowed at the admission stage itself. The order passed by the Additional Commissioner, Additional Collector and the Sub-Divisional Officer (R), Lormi are set aside and the matter is remitted back to the Sub-Divisional Officer (R), Lormi for deciding the matter afresh after giving proper opportunity of hearing to all the parties. The petitioner is reinstated in the office of Sarpanch of Gram Panchayat Amaldihi. The SDO shall invite objections from the citizens of the Gram Panchayat area so that in the absence of evidence the allegations may not remain unnoticed or unattended, if they are true.

4. Let the fresh proceedings be completed by the Sub-Divisional Officer (R), Lormi within a period of six months from the next date of hearing. The petitioner shall appear before the Sub-Divisional Officer (R), Lormi on 3rd January, 2017.
5. Learned State counsel shall send copy of this order to Sub-Divisional Officer (R), Lormi before 3rd January, 2017.

Sd/-

Judge

Prashant Kumar Mishra

Ashu