

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2540 of 2016

1. Subhash Chand Sidar, S/o Mangal Singh Sidar, aged about 25 years, Panch Ward No.5,
2. Smt. Firtin Bai Sidar, W/o Shri Jeetram Sidar, aged about 35 years, Panch Ward No.2,
3. Smt. Jhul Bai Sahu, W/o Shri Nawdharam Sahu, aged about 45 years, Panch Ward No.8,
4. Bhaiyalal Gond, S/o Shri Mahettar Gond, aged about 26 years, Panch Ward No.9,
5. Smt. Sevati Bai, W/o Shri Dorilal Shriwas, aged about 40 years, Panch Ward No.13

All petitioner No.1 to 5 R/o Village & Post Kotetara, Police Station & Tehsil Jaijajipur, Civil & Revenue District Janjgir Champa (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Collector, Janjgir, Civil & Revenue District Janjgir Champa (CG)
2. Sub Divisional Officer (Revenue) Sakti, Civil & Revenue District Janjgir Champa (CG)
3. Chief Executive Officer, Janpad Panchayat Jaijaipur, Civil & Revenue District Janjgir Champa (CG)
4. Secretary, Gram Panchayat Kotetara, Janpad Panchayat Jaijaipur, Civil & Revenue District Janjgir Champa (CG)

---- Respondent

For Petitioner : Shri Devesh G. Kela, Advocate.
For Respondent/State : Shri A.S. Kachhawaha, Additional AG.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

19/10/2016

1. The petitioners are elected Panchas from different wards of Gram Panchayat Kotetara, Block Jaijaipur, District Janjgir Champa. They have

called in question the order dated 17.6.2016 whereby the Sub Divisional Officer (Revenue) Sakti has removed them from the office of Pancha in exercise of powers under Section 36 (1)(o) of the CG Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam').

2. It is argued that under Section 36 (3) of the Adhiniyam it is the Collector of the concerned district who is authorized to declare that the vacancy has occurred because of the disqualification suffered by the concerned office bearer under any of the provision under Section 36 (1) of the Adhiniyam, therefore, the impugned order is without jurisdiction.
3. Having seen the papers filed along with the Writ Petition, it would appear that the concerned Sub Divisional Officer (Revenue) has himself sought permission from the Collector to review the order on the ground that since ordinarily the Sub Divisional Officer (Revenue) is the Prescribed Authority for matters concerning Gram Panchayat, a wrong order has been passed due to inadvertence, therefore, permission be granted for reviewing the order. The Collector thereafter refused to grant said permission on the ground that under the Adhiniyam, there is no provision for suo motu initiating review proceeding.
4. Since the authority who has passed the order has himself opined that the order passed by him is without jurisdiction, the impugned order dated 17.6.2016 is set aside. The matter shall now be considered by the Collector in accordance with the provisions contained in Section 36 (3) of the Adhiniyam and necessary orders shall be passed within a period of 3 months from today after affording proper opportunity of hearing to the petitioners.
5. Learned Additional Advocate General shall inform the Collector about this order.
6. The Writ Petition is accordingly disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve