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**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 3140 of 2016**

- Ramkhilawan Dhruv S/o Shri Kunjram Dhruv, Aged About 28 Years Occupation Sarpanch, Gram Panchayat Achholi, R/o Village Achholi, Thana & Tahsil Palari, Civil And Revenue District Balodabajar Bhatapara, (Chhattisgarh)

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan Capital Complex, New Raipur, Distt Raipur, (Chhattisgarh)
2. Sub Divisional Officer ( Revenue), Balodabazar, District Balodabazar Bhatapara, (Chhattisgarh)

**---- Respondent**


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|-----------------------|--------------------------------------------|
| For Petitioner        | Mr. Sunil Sahu, Advocate                   |
| For Respondent /State | Mr. A.S. Kachhwaha, Addl. Advocate General |

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**Hon'ble Shri Justice Prashant Kumar Mishra****Order On Board****16/12/2016**

1. Heard.
2. In the proceedings under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (in short "the Adhiniyam"), for petitioner's removal from the office of Sarpanch of Gram Panchayat, Achholi, the prescribed authority i.e. SDO(R), Balodabazar, has passed the impugned order on 08.12.2016 directing his suspension under Section 39 of the Adhiniyam.

3. It appears, some villagers have lodged complaint against the petitioner alleging misappropriation of funds by him. The SDO(R) has initiated the proceedings under Section 40 of the Adhiniyam for petitioner's removal. In the said proceedings, notices were issued to the petitioner on 30.09.2016. The petitioner appeared and sought adjournment for filing reply on 07.11.2016. He submitted his reply on 17.11.2016 and prayed for sometime to submit relevant record of the Gram Panchayat and cash book. After submitting the cash book, the petitioner sought time on 08.12.2016 for producing other documents. The prescribed authority refused adjournment and straightway passed the order placing the petitioner on suspension. The impugned order *prima facie* appears to have been passed in violation of principles of natural justice.
4. It is not a case where the petitioner was protracting the matter for months together. Even otherwise, the impugned order is a non-speaking order because even if the petitioner failed to produce documents, it was obligatory for the prescribed authority to have recorded its *prima facie* satisfaction as to whether the petitioner needs to be suspended under Section 39 of the Adhiniyam. Thus, there is violation of principles of natural justice on twin counts. Firstly, for disallowing the petitioner's prayer for adjournment to file documents and secondly, by passing an unreasoned order.
5. In the obtaining facts and circumstances of the case, instead of keeping this petition pending, it would be appropriate to

dispose this petition at the admission stage itself.

6. Accordingly, the impugned order dated 08.12.2016 is quashed and the matter is remitted back to the prescribed authority for passing fresh order under Section 39 of the Adhiniyam after giving proper opportunity of hearing and submitting documents to the petitioner.
7. Let fresh order be passed within a period of 06 weeks from today. The State Counsel shall inform the prescribed authority about this order.
8. The writ petition is allowed to the extent indicated above.

Sd/-

Judge

**(Prashant Kumar Mishra)**

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