

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 208 of 2017

- Durga Prasad Dande S/o Siyaram Dande, Aged About 38 Years
R/o Mohtara Kurmi, Police Station Lalpur, Tahsil & District
Mungeli, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And
Rural Development Department, Mahanadi Bhawan,
Mantralaya, New Raipur, (Chhattisgarh)
2. The Collector, Mungeli, District Mungeli, (Chhattisgarh)
3. The Sub Divisional Officer (Revenue), Lormi, District Mungeli,
(Chhattisgarh)
4. The Chief Executive Officer, Janpad Panchayat, Lormi, District
Mungeli, (Chhattisgarh)
5. The Gram Panchayat, Mohtara Kurmi, Through Its Secretary,
Janpad Panchayat, Lormi, District Mungeli, (Chhattisgarh)

---- Respondent

For Petitioner	Mr. K.K. Singh, Advocate
For Respondent /State	Mr. Shashank Thakur, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

1/2/2017

1. Heard.
2. Learned counsel for the petitioner would submit that the
petitioner has not been served with the Article of Charges along
with the show cause notice issued to him under Section 40 of
the Panchayat Raj Adhiniyam, 1993 (in short "the Adhiniyam"),
because, on the said date, the petitioner was confined in
Bilaspur Central jail. He would also submit that the

Superintendent, Central Jail, Bilaspur, has never served any copy to the petitioner.

3. In view of the submission made and without testing the veracity of the submission, since it is an admitted position that on the date when the petitioner is said to have been served with the notice under Section 40 of the Adhiniyam, he was confined in Central Jail, Bilaspur, and it might not have been possible for him to respond to the notice, therefore, he is not aware about the nature of the charges, which he is required to answer, there appears non service of article of charges.
4. The provisions contained in Section 39 of the Adhiniyam being explicit that the power of suspension can be invoked only after service of charges under Section 40 of the Adhiniyam and the petitioner being confined on the relevant date, ends of justice would be served if the impugned order of suspension (Annexure P/1), is quashed at this stage with liberty to the respondents to serve the charges to the petitioner and thereafter, pass fresh order under Section 39(1)(b) of the Adhiniyam in accordance with law.
5. It is ordered accordingly.
6. Let the needful be done, if the respondents so desire, within a period of 02 months from today.
7. The writ petition stands accordingly disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)