

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.186 of 2017

Smt. Fagani, W/o Shri Samme Lal Sahu, aged about 43 years, R/o Vill. Bhuigaon, P.S. & Tah. Pamgarh, Distt. Janjgir-Champa (C.G.)
---- Petitioner

Versus

1. Rambilas, S/o Dataram Suryawanshi,
2. Dhruw Kumar, S/o Bitthul Prasad Kaiwart,
3. Narayan, S/o Nathuram Kaiwart,

Respondent No.1 to 3 R/o Vill. Bhuigaon, P.S. & Tah. Pamgarh, Distt. Janjgir-Champa (C.G.)

4. Collector, Janjgir, Distt. Janjgir-Champa (C.G.)

---- Respondents

For Petitioner: Mr. H.V. Sharma, Advocate.

For Respondents No.1 to 3: -

Mr. A.K. Yadav, Advocate.

For State/Respondent No.4: -

Mr. Dhiraj Kumar Wankhede, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/07/2017

1. Respondents No.1 to 3 made a complaint to the Sub Divisional Officer (Revenue), Pamgarh, under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short, 'the Act of 1993') against the petitioner for her removal. The said complaint was considered and by order dated 24-6-2016, proceedings were dropped finding no merit in the complaint against which the complainants preferred appeal under Section 91 of the Act of 1993 read with Section 3 (a) of the Chhattisgarh Panchayats (Appeal and Revision) Rules, 1995 (for short, 'the Rules of 1995'), and the appeal was admitted for hearing

by order dated 3-10-2016 against which this writ petition has been filed.

2. Learned counsel for the petitioner submits that the Collector ought not to have admitted the appeal for hearing as such, the matter was not cognizable by the Sub Divisional Officer (Revenue).
3. On the other hand, learned counsel for respondents No.1 to 3 would support the impugned order.
4. The fact remains that the complaint made by the complainants respondents No.1 to 3 was considered and dropped by the Sub Divisional Officer (Revenue) by passing order dated 24-6-2016 and that was an order passed by the Sub Divisional Officer (Revenue). Rule 3 (a) of the Rules of 1995 clearly provides that appeal shall lie in the case of an order passed by the Sub Divisional Officer under any provision of the Act or rules or byelaws made thereunder to the Collector. Thus, the Collector is empowered to hear the appeal against the order dated 24-6-2016 dropping the proceedings against the petitioner. Since this is an order appealable before the Collector and, therefore, the appeal has rightly been entertained. However, it is open for the petitioner to argue before the Collector that appeal has no merit and is liable to be dismissed. Entertainment of appeal cannot be said to be without jurisdiction and without authority of law. Hence, the writ petition is dismissed, in limine. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge