

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.1985 of 2017

Ramsai Paiknra, son of Shri Sahdeo Painkra, aged about 59 years, Ex-Sarpanch, Gram Panchayat Jharan, Janpad Panchayat, Lailunga, R/o Village Jharan, Tahsil Lailunga, District Raigarh, Civil and Revenue District Raigarh (CG).

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Panchayat and Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (CG).
2. Commissioner, Panchayat and Social Welfare Department, Indrawati Bhawan, Raipur, District Raipur (CG).
3. Deputy Director, Panchayat, Raigarh, District Raigarh (CG).
4. Collector (Panchayat Section), Raigarh, District Raigarh (CG).
5. Sub Divisional Officer (Revenue), Lailunga, Tahsil Lailunga, District Raigarh (CG).

--- Respondents

For Petitioner : Mr. Manoj Kumar Sinha, Advocate
For State : Mr. Vinod Deshmukh, Deputy Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

20/07/2017

(1) The petitioner is Sarpanch posted in Panchayat within Lailunga Block in Raigarh District. He is aggrieved by the initiation of proceeding against him by the concerned SDO for recovery of the amount under Section 92 of the CG Panchayat Raj Adhiniyam, 1993 on the ground that he was party to the construction raised by the Gram Panchayat which was subsequently found to be inferior or substandard.

(2) In similar writ petition bearing WP(C) No.5955/2008 (Suknath Ram and others vs. State of Chhattisgarh and others) and other

connected matters preferred by few Ex-Sarpanch of different Gram Panchayat of Lailunga Block, this Court has passed the following order on 20.04.2012:-

"6. Having heard learned counsel for the parties, this court is of the considered opinion that the nature of defense raised by the petitioners is in the realm of disputed questions of fact which needs to be enquired by the concerned authority and this Court in exercise of powers under Article 226 of the Constitution of India may not have jurisdiction to decide disputed questions of fact. Even otherwise, the impugned communication is only a show cause notice.

7. Though no interim order is operative in favour of petitioner yet learned counsel would submit that the amount has not been recovered from them.

8. In view of the above, this writ petition is disposed off with a direction to the petitioners to present a detailed reply before the SDO Revenue along with a copy of this order and the said authority shall consider the reply in accordance with provisions contained under Section 92(4) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 and shall determine the amount recoverable against the petitioners after giving proper and adequate opportunity of hearing to the petitioners."

(3) Accordingly, the present writ petition is disposed of in the same terms.

SD/-

(Sanjay K. Agrawal)
Judge

L/-