

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.4985 of 2005

(Arising out of order dated 5-7-2005 in Revision Case No.60/A 89/04-05 of the learned Director (Panchayat), Chhattisgarh, Raipur)

Brij Lal Shyam (Gond), S/o Shri Sarju Ram Thakur, aged about 35 years, Gram Shankri, Post Pairi, Tah. Gunderdehi, Distt. Durg (C.G.)
---- Petitioner

Versus

1. State of C.G., Through the Secretary, Grampanchayat and Rural Development Deptt., D.K.S. Bhawan, Raipur (C.G.)
2. Dy. Director, Panchayat & Samaj Kalyan, Durg (C.G.)
3. Chief Executive Officer, Janpad Panchayat, Gunderdehi, Distt. Durg (C.G.)
4. Sarpanch, Gram Panchayat, Shankri, Tah. Gunderdehi, Distt. Durg (C.G.)

---- Respondents

For Petitioner: Mr. Vinod Kumar Sharma, Advocate.
For Respondents No.1 and 2 / State: -
Mr. Dhiraj Kumar Wankhede, Govt. Advocate.
For Respondents No.3 and 4: -
Mr. P.P. Sahu, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

07/11/2017

1. The petitioner was appointed as Panchayat Karmi in accordance with the rules. He was removed by order dated 26-7-2004 and thereafter also he has been removed from the post of Panchayat Secretary on 12-8-2004.
2. Learned counsel for the petitioner would submit that the petitioner has been removed from the post of Panchayat Karmi without following and complying Rule 7 of the Chhattisgarh Panchayat Service

(Discipline and Appeal) Rules, 1999 (for short, 'the Rules of 1999').

3. Learned counsel for respondents No.3 and 4 would submit that the petitioner was served with notice, but he failed to appear thereby Rule 7 of the Rules of 1999 could not be complied and thereafter by the resolution of Gram Sabha, he has been removed and new person has already been appointed.
4. Whereas, learned State counsel would also support the impugned order.
5. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also perused the impugned orders and other material available on record with utmost circumspection.
6. It appears from the record that Gram Sabha has passed a resolution on 23-7-2004 which was forwarded by the Gram Panchayat to the competent authority and on that basis, the petitioner has been removed on 26-7-2004.
7. It is admitted position available on record that the order of termination of the petitioner from the post of Panchayat Karmi has been passed without following the proper procedure of law as prescribed under Rule 7 of the Rules of 1999. Rule 7 of the Rules of 1999 prescribes detailed procedure for imposing major penalties. Rule 7(1) provides that no order, imposing on a member of the Panchayat Service, any of the penalties specified in clause (iv) to (vii) of Rule 5 shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided and which requires framing of charge, issuing of notice, giving opportunity for written statement of defence, opportunity for appointment of presenting officer and hearing of

delinquent Panchayat employee. Thus, detailed procedure has been prescribed, but no procedure has been followed and the order of termination has been passed.

8. This Court in the matter of **Dhaluram Kosaria v. State of C.G. and others**¹ has clearly held that termination of Panchayat Karmi without following Rule 7 of the Rules of 1999, which is mandatory in nature, is unsustainable and bad in law.
9. Following the mandate in **Dhaluram Kosaria** (supra) to the facts of the present case in which the procedure prescribed in Rule 7 of the Rules of 1999 has not been followed, the order of termination of the petitioner is held to be illegal and it is accordingly set aside. The case is remitted back to respondents No.3 and 4 who shall proceed further with the matter, in accordance with law.
10. The writ petition is allowed to the extent indicated herein-above.
No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

¹ 2006(2) C.G.L.J. 186