

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1915 of 2016

- Smt. Kali Bai Darro W/o Maansairam Darro, Aged About 45 Years Occupation- Sarpanch, Village Panchayat- Jaipur, R/o Village P.V. 50, Village Panchayat, Jaipur, Block Koylibeda, Tahsil Pakhanjur, District Kanker, (Chhattisgarh)

---- Petitioner

Versus

1. Chhattisgarh State Scheduled Tribe Commission, Jalvihar Colony, Raipur, (Chhattisgarh), Through: Its Secretary, Chhattisgarh State Scheduled Tribe Commission, Jalvihar Colony, Raipur, (Chhattisgarh)
2. Secretary, Chhattisgarh State Scheduled Tribe Commission, Jalvihar Colony, Raipur, (Chhattisgarh)
3. Collector, North Bastar, Kanker, (Chhattisgarh)
4. Sub Divisional Officer, (Rev.), Pakhanjur, District North Bastar, Kanker, (Chhattisgarh)
5. State Of Chhattisgarh, Through: The Secretary, Panchayat And Welfare Department, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)

---- Respondents

For Petitioner
For Respondent-State

Shri P. P. Sahu, Advocate
Shri R. K. Mishra, Dy. AG

For Respondent- Commission

Ms. Pushpa Dwivedi, Advocate
on behalf of Shri A. S. Kachhawaha,
Advocate

For Intervener

Shri Parag Kotecha, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

17/02/2017

1. While examining the complaint made by the intervenor Mankuram Anchal, the Chhattisgarh State Scheduled Tribe Commission has recommended for petitioner's ouster from the office of Sarpanch of Gram Panchayat, Jaipur, Tahsil Pakhanjur, District Kanker. The Commission has also recommended for lodging FIR against the petitioner.
2. The Commission being a recommendatory body, it cannot direct removal of a person who is elected in an election held by the State Election Commission under the Chhattisgarh Panchayat Raj Adhiniyam, 1993. It is for the concerned authority to initiate lawful proceedings having jurisdiction over the matter to take action in accordance with law.
3. At this stage, Shri Kotecha, learned counsel for the intervener, would submit that the writ petition may be disposed of reserving liberty in favour of the intervener to move the appropriate forum having jurisdiction in law to initiate action against the petitioner.
4. In view of the statement made by the intervener, who had moved application before the Commission, the writ petition is disposed of with an observation that the impugned order is only a recommendation, therefore, the concerned authority is not entitled to straightway initiate action against the petitioner without holding any enquiry by itself. The intervener may move the appropriate authority, who is having jurisdiction over the matter to take action against the petitioner on the grounds which were raised before the Commission. On such application being filed,

the authority having jurisdiction over the matter shall proceed in accordance with law, without being influenced by the observation made by the Commission.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala