

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 557 of 2017**

Firan Lal Kenwat S/o Shri Darashram Kenwat Aged About 33 Years
R/o Village- Barduli, Post- Odekera, Police Station- Hasaud, Tehsil-
Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Collector Janjgir, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
2. Sub-Divisional Officer (Revenue) Sakti, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
3. Additional Tehsildar Hasaud (Presiding Officer), Civil & Revenue District- Janjgir-Champa, Chhattisgarh
4. Smt. Hema Kumari W/o Shri Lalit Singh Sidar Aged About 26 Years Panch Ward No. 1, Gram Panchayat Barduli, R/o Village- Barduli, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
5. Smt. Sagun Bai Karsh W/o Shri Shyamlal Karsh Aged About 43 Years Panch Ward No. 2, Gram Panchayat Barduli, R/o Village- Barduli, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
6. Hari Ram Khunte S/o Shri Kartik Ram Khunte Aged About 58 Years Panch Ward No. 3, Gram Panchayat Barduli, R/o Village- Barduli, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
7. Om Prakash Sahu S/o Shri Tiharu Ram Sahu Aged About 33 Years Panch Ward No. 4, Gram Panchayat Barduli, R/o Village- Barduli, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
8. Manoj Kumar Sidar S/o Shri Ram Lal Sidar Aged About 30 Years Panch Ward No. 5, Gram Panchayat Barduli, R/o Village- Barduli, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
9. Smt. Gurbari Dahariya W/o Shri Uvaram Dahariya Aged About 39 Years Panch Ward No. 6, Gram Panchayat Barduli, R/o Village- Tumidih, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
10. Smt. Rambai Mahant W/o Shri Harishankar Mahant Aged About 39 Years Panch Ward No. 7, Gram Panchayat Barduli, R/o Village- Tumidih, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh
11. Ram Kumar Khande S/o Shri Chandram Khande Aged About 37

Years Panch Ward No. 8, Gram Panchayat Barduli, R/o Village- Tumidih, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh

12. Smt. Risma Ratre W/o Shri Rajendra Ratre Aged About 25 Years Panch Ward No. 9, Gram Panchayat Barduli, R/o Village- Tumidih, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh

13. Smt. Yashoda Sonwani W/o Shri Bhojram Sonwani Aged About 34 Years Panch Ward No. 10, Gram Panchayat Barduli, R/o Village- Tumidih, Post- Odekera, Police Station- Hasaud, Tehsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioner : Shri K.A. Ansari, Senior Advocate with Shri Ramesh Kumar Nayak, Advocate.

For Respondent No. 1 to 3 : Shri Dheeraj Wankhede, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/07/2017

(1) The petitioner is an elected Sarpanch of Gram Panchayat, Barduli. The respondent No. 6 with some panchas of Gram Panchayat, Barduli submitted a notice of No Confidence Motion against the petitioner before respondent No. 2- Sub Divisional Officer (R) on 22.02.2016.

(2) Feeling aggrieved against with notice of No Confidence Motion, petitioner raised a dispute under Section 21(4) of the C.G. Panchyat Raj Adhiniyam, 1993 (henceforth "Adhiniyam, 1993"), in which on 9.9.2016 notices were issued to the respondents herein but the same could not be served till 9.12.2016 and, therefore, the case was adjourned by the Collector, Janjgir-Champa for 26.12.2016.

(3) On 23.12.2016, the petitioner filed an application for staying the by-election notice dated 5.12.2016 before respondent No. 2 along with

application for urgent hearing.

(4) Learned Collector heard the petitioner on application for staying by election and passed the impugned order by rejecting the petitioner's application for staying the by-election notice and also rejected the dispute raised under Section 21(4) of the Act, 1993.

(5) Learned counsel for the petitioner would submit that the petitioner was heard only on application for staying by-election notified on 05.12.2016 but whole dispute has been decided against the petitioner without hearing on the main dispute under Section 21(4) of the Adhiniyam, 1993.

(6) On the other hand, counsel for the State would support the impugned order.

(7) A careful perusal of the order sheet dated 9.12.2016, which was fixed by the Collector would show that on that day matter could not be heard and the Deputy Collector recorded order sheet adjourning the case for 26.12.2016 holding that notice issued to the respondents had not received and on 26.12.2016 only application for staying the by election was heard whereas Collector recorded that the notices were served to the respondents as on 9.12.2016.

(8) A further perusal of the impugned order dated 26.12.2016 would show that the petitioner was heard only on the question of staying by election notified on 5.12.2016 and he was not heard on the main dispute under Section 21(4) of the Act, 1993 and the impugned order rejecting his whole dispute has been passed.

(9) Since the petitioner was only heard on the question of staying the by-election and he was not heard on the main dispute pending

under Section 21(4) of the Act, 1993 as it is reflected from the impugned order, the impugned order dated 26.12.2016 is liable to be set aside.

(10) Accordingly, the writ petition is allowed. The matter is restored to the file of Collector, Janjgir-Champa for hearing and disposal in accordance with law after noticing the respondents herein.

(11) The writ petition is allowed to the extent indicated hereinabove.

(12) This Court is unhappy to see that the Deputy Collector has recorded order sheets dated 28.03.2016, 04.04.2016, 11.04.2016, 22.04.2016, 02.05.2016, 16.05.2016, 06.06.2016, 8.7.2016, 15.07.2016, 22.07.2016, 8.8.2016, 09.09.2016, 28.10.2016 & 09.12.2016 whereas Collector being the competent authority was required to hear the revision petition and, therefore, it is directed that the Collector, Janjgir-Champa himself will hear the petition on all dates of hearing without fail within a period of two months from the date of receipt of copy of this order.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-