

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPC No. 305 of 2017**

- Smt. Ramkali Raj, W/o Babulal Raj, Aged About 50 Years, Sarpanch, Gram Panchayat Lalpur, Tahsil Podiuproda, District Korba (Chhattisgarh)

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat & Rural Development, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (Chhattisgarh)
2. Collector, Korba, District Korba (Chhattisgarh)
3. Sub Divisional Officer (Revenue)-Cum-Prescribed Authority, Podiuproda, Korba (Chhattisgarh)
4. Chief Executive Officer, Janpad Panchayat, Podiuproda, Dist. Korba (Chhattisgarh)
5. Gram Panchayat Lalpur, Tahsil Podiuproda, District Korba (Chhattisgarh)
6. Smt. Parmila Bai Neti, W/o Pratap Singh Neti, Aged About 46 Years, Panch, Gram Panchayat Lalpur, Tahsil Podiuproda, District Korba (Chhattisgarh)

**---- Respondents**

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For Petitioner  
For Respondent-State

Shri Vivek Shrivastava, Advocate  
Shri Shashank Thakur, GA

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**Order On Board**

**10/02/2017**

1. Petitioner would call in question the order passed by the SDO (Revenue)-cum-Prescribed Authority, Podiuproda, District Korba suspending the petitioner from functioning as Sarpanch

of Gram Panchayat, Lalpur, in exercise of powers under Section 39 (1) (b) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (henceforth 'the Adhiniyam, 1993').

2. In Writ Appeal No.555/2016, the Division Bench has observed that when the order of suspension has been approved/confirmed by the Collector, the availability of alternative remedy would not come in way, because the appeal would lie before the same authority. Since in the present case also, the Collector has confirmed the order passed by the Prescribed Authority, I have heard the petitioner on merits.
3. It is argued that after service of notice along with the charges seeking petitioner's removal under Section 40 (1) of the Adhiniyam, 1993, the petitioner had replied to the show cause notice, but without considering any of the submission made in the reply, the petitioner has been suspended, therefore, there is violation of principles of natural justice.
4. In my considered view, adherence to principles of natural justice is ingrained in the provisions under Section 40 (1) of the Adhiniyam, 1993, which provides that the order of removal shall be passed only after giving due opportunity of hearing to the concerned office bearer of the panchayat. However, no such provision has been made when the power is conferred on the Prescribed Authority for suspension of an office bearer under Section 39 (1) (b) of the Adhiniyam, 1993. Power to suspend an office bearer is an interim measure to keep the wrong doer away from the office, which he has prima-facie

misused while in power, which has compelled the Authority to initiate proceedings for removal under Section 40 (1) of the Adhiniyam, 1993.

5. Even otherwise, the allegation against the petitioner is of committing financial irregularities, which has been elaborately considered in the impugned order itself. Providing an opportunity of hearing at the stage of directing suspension and recording a finding on the issue may amount to prejudging the issue and making a prima facie opinion even before passing an order under Section 40 (1) of the Adhiniyam, 1993. In such an eventuality, the concerned office bearer may also raise a question that the Prescribed Authority has made up its mind even before passing an order under Section 40 (1) of the Adhiniyam, 1993.
6. For all the afore-stated reasons, this Court does not find any substance in this writ petition, it is accordingly dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala