

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 10-11-2017****Delivered on 17-11-2017****WA No. 405 of 2017**

(Arising out of order dated 22-9-2017 in WPC no. 2423/2017)

Sanjay Chandrakar S/o Shri Mohan Lal Chandrakar Aged About 38 Years The Then Sarpanch, Gram Panchayat Village Panchayat Kutela (Mohmela), Janpad Panchayat Arang, District Raipur CG.

---- Appellant**Versus**

1. State of Chhattisgarh through the Secretary Panchayat and Rural Development Department Mahanadi Bhavan New Raipur CG.
2. Lokpal / Appellate Authority, Mahatma Gandhi National Rural Employment Guarantee Scheme, Raipur District Raipur CG.
3. Collector, Raipur District Raipur CG.
4. Chief Executive Officer, Zila Panchayat Raipur District Raipur CG.
5. Chief Executive Officer, Janpad Panchayat Arang, Raipur District Raipur CG.
6. Smt. Anju Yadav W/o Mohan Yadav Aged About 30 Years Up - Sarpanch Gram Panchayat Kutela (Mohmela) Janpad Panchayat Arang District Raipur CG.

---- Respondents

For appellant	:	Shri Akash Pandey, Adv.
For Respondent/State	:	Shri UNS Deo, Govt. Adv.
For Respondent No. 6	:	Smt. Hameeda Siddiqui, Adv.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****CAV JUDGMENT**

1. In this writ appeal, challenged is levied to the order dated 22-9-2017 passed by learned Single Judge in W.P.(C) No. 2423/2017 whereby and whereunder he allowed the said writ petition filed by respondent No. 6.
2. In brief, case of respondent No. 6 is that she was Up-sarpanch of village Panchayat Kutela (Mohmela) and appellant was Sarpanch of the same gram panchayat. In the financial years 2011-12, 2012-13 and 2013-14, State Government had sanctioned different works under the MNREGA scheme for said Panchayat and Janpad Panchayat which were carried out by the appellant and some other persons. They did

not properly carry out the aforesaid works which were assigned to them. Being aggrieved, the respondent No. 6 and others made complaints to different authorities. Ultimately a case was registered before the Lokpal, Distt. Raipur under the MNREGA scheme. The Lokpal on 16-1-2017 vide Annexure P-6 recommended that there was embezzlement of Rs. 25,74,314/- and it would be recovered from the appellant and erred persons. Being aggrieved, the appellant preferred an appeal before the Lokpal Appellate Authority under MNREGA scheme, Raipur wherein the Appellate Authority passed an award on 1-5-2017 vide Annexure P-1, allowed the appeal, recommended for cancellation of the recommendations made by the Lokpal under MNREGA Scheme Raipur against the appellant, and also recommended for acquittal of appellant from the charges.

3. Being aggrieved, the respondent No. 6 preferred aforesaid writ petition.
4. Shri Akash Pandey, counsel for the appellant argued that as per the provisions of Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (for short hereinafter referred to as 'Act of 2005') and the Chhattisgarh Gramin Rojgar Guarantee Shikayat Nivaran Niyam, 2012 (for short hereinafter referred to as 'Rules of 2012'), it is not required that complainant would be afforded opportunity of hearing in any matter pending under aforesaid Act of 2005. Respondent No. 6 has no *locus standi* to file aforesaid writ petition. Thus the impugned order dated 22-9-2017 vide Annexure A-1 is unreasonable, not sustainable and bad in the eye of law. Thus it may be set aside.
5. Shri UNS Deo, Government Advocate appearing for the State supported the impugned order and urged that it does not call for any interference by this Court.
6. Smt. Hameeda Siddiqui, counsel for respondent No. 6 argued that during disposal of the matter, the Appellate Authority did not give an opportunity of hearing to respondent No. 6 though she was party to the said appeal and complaint was made by her and some other persons.
7. There is no provision in the Act of 2005 that complainant may be heard. As per Rules 5(2) and 5(4) of the Rules of 2012, the complainant would be communicated in writing about the decision of the proceeding under the said Act of 2005.
8. From bare reading of the provisions of the Act of 2005 and the Rules of 2012, it is very clear that it is not necessary to incorporate complainant

in the proceeding under the Act of 2005. In the case in hand, situation is different one. In this case, the respondent No. 6 was incorporated in the proceeding pending before the said Lokpal and also in the Appellate Authority. It would be worthwhile to mention that in the proceeding pending before the Appellate Authority, no notice had been issued to respondent No. 6. As a result she was deprived to put forward her case before the Appellate Authority. Looking to the facts and circumstances of this case, we hold that the Appellate Authority violated the principles of natural justice and resulted in causing prejudice to the respondent No. 6.

9. On the basis of the foregoing facts and circumstances, we are agree with the reasoned impugned order dated 22-9-2017 (Annexure A-1) and accordingly affirm the same.
10. On the corner stone of the facts and circumstances, we conclude that no substantial issue has been raised in this writ appeal calling for interference with the impugned order.
11. The writ appeal being devoid of merit deserves to be and is hereby dismissed.
12. The appellant shall bear his own cost as well as cost of the respondents.

Sd/-
(Thottathil B. Radhakrishnan)
Judge

Sd/-
(Sharad Kumar Gupta)
Judge