

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1234 of 2016**

- Smt. Pushpa Sahu W/o Jageshwar Sahu, Aged About 29 Years Sarpanch Village Panchayat Kirvai Janpad Panchayat, & P.S. Simga, District Baloda Bazar Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat & Rural Development Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Collector, Balodabazar, District Balodabazar Bhatapara Chhattisgarh
3. Sub Divisional Officer Revenue And Prescribed Authority Panchayat Simga, District Baloda Bazar Bhatapara Chhattisgarh
4. Chief Executive Officer, District Panchayat, Balodabazar, District Balodabazar Bhatapara Chhattisgarh
5. Chief Executive Officer, Janpad Panchayat Simga, District Balodabazar Bhatapara Chhattisgarh

---- Respondent

For Petitioner : Shri Mahendra Dubey, Advocate.
For Respondent/State : Shri Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****09/03/2017**

1. The petitioner would assail the legality and validity of the show cause notice (Annexure-P/1) and the subsequent order of suspension on the

ground that before passing the order of suspension, the petitioner has not been served a charge sheet, which is a pre-requisite as held by the Division Bench of this Court in Writ Appeal No.92/2014 (Jitendra Kumar Vs. State of Chhattisgarh & Others) decided on 17th July, 2014.

2. Perusal of the notice (Annexure-P/1) would indicate that it contains the charges to which the petitioner has been asked to submit reply before taking action under Section 40 of the CG Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam').
3. Section 39 of the Adhiniyam provides that if proceeding under Section 40 of the Adhiniyam for removal of Sarpanch is initiated and he has been issued a charge sheet, the Prescribed Authority may direct suspension of office bearer. Section 39 nowhere contemplates issuance of show cause notice before directing suspension. The order of suspension is always treated to be temporary measure to deny access to the office and performance of any legal duty or financial power during the period when the charges are under investigation.
4. The order of suspension by itself is neither a penalty nor final in nature, therefore, if the statute does not provide for grant of opportunity, this Court may not read any such facility in favour of the petitioner merely because the order of suspension was issued subsequent to the show cause notice asking the petitioner to submit reply to the charges for the proposed removal under Section 40 of the Adhiniyam.

5. Even otherwise, the order of suspension was issued on 29.4.2016 and the writ petition is thus remained pending for about 10 months. Therefore, ends of justice would be served if the Sub Divisional Officer (Revenue) is directed to dispose of the proceeding under Section 40 of the Adhiniyam at the earliest, preferably within a period of 6 months from today.
6. With the direction aforesaid, the Writ Petition is disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve