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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 470 of 2017**

(Arising out of judgment/order dated 13.10.2017 in Writ Petition (C) No.904 of 2017 of the learned Single Judge)

Santosh Singh S/o Shri Gulab Singh, Aged About 46 Years R/o Village Madannagar, Tahsil Pratappur, P. S. Pratappur, District Surajpur Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through The Collector Surajpur, District Surajpur Chhattisgarh
2. Chief Executive Officer, Zila Panchayat, Surajpur, District - Surajpur Chhattisgarh.
3. Chief Executive Officer, Janpad Panchayat Pratappur District Surajpur Chhattisgarh
4. Suresh Kumar, S/o Shri Shivnath Singh, R/o Village Chadreli, Janpad Sadasya Kshetra No. 22, Janpad Panchayat Pratappur, District Surajpur Chhattisgarh
5. Jagat Lal, S/o Shri Rajbali, R/o Village Chandreli Janpad Sadasya Kshetra No. 22 Janpad Panchayat Pratappur District Surajpur Chhattisgarh
6. Durga Lal, S/o Shri Singachand, R/o Village Mayapur Janpad Sadasya Kshetra No. 7 Janpad Panchayat Pratappur District Surajpur Chhattisgarh
7. Sanjiv Shrivastava, S/o Late B. P. Shrivastava, R/o Village Khorma Janpad Sadasya Kshetra No. 9 Janpad Panchayat Pratappur District Surajpur Chhattisgarh

---- Respondents

For Appellant	: Shri Bhupendra Singh, Advocate.
For Respondent/State	: Shri R.K. Gupta, Deputy Advocate General.
For Respondents No.4 to 7	: Shri V.K. Pandey, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sanjay Agrawal, Judge.

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

05/12/2017

1. We have heard the learned counsel for the Appellant, the learned Deputy Advocate General and the learned counsel for the contesting Respondents.

2. The Appellant/Writ Petitioner was elected as Vice-President of a Janpad Panchayat in 2015. Thereafter, he was elected as Director of a Co-operative Society. He was declared as Vice-President of the Jila Sahkari Kendriya Bank on 8.3.2016. The writ petition was filed when the Writ Petitioner faced the situation where he was treated as incompetent to continue as the Vice-President of Jila Panchayat on account of the operation of sub-section (5) of Section 25 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993; hereinafter referred to as the 'Act'.
3. The learned Single Judge has rightly held through the impugned judgment that sub-section (5) of Section 25 of the Act provides a deeming provision and it operates by itself. The learned counsel for the Appellant/Writ Petitioner however emphasised the plea that the Deputy Director acted without jurisdiction in deciding on the issue that there was no pre-decisional hearing. The fact that the Petitioner upon becoming the Vice-President of the Jila Sahkari Kendriya Bank on 8.3.2016, was also simultaneously holding the post of the Vice-President of Janpad Panchayat, Pratappur is not in dispute. This is the crucial fact. That fact situation generated the operation of Section 25(5) of the Act, which effectuates automatically and *eo instanti* on the Petitioner becoming the Vice-President of a Cooperative Society while being the President of a Janpad Panchayat. So much so, having regard to the deemed vacancy situation which followed the undisputed and indisputable fact that the Petitioner, who was the Vice-President of the Janpad Panchayat became the Vice-President of the Bank, which is a Co-operative Society, no adjudication is required to hold a person as having become incompetent to continue to hold a particular post.
4. An argument was extended on behalf of the Writ Petitioner before the learned Single Judge that the Vice-President and Vice-Chairman are two different concepts. Making reference to Rule 2 (m) in the definition clause of the Chhattisgarh Co-operative Societies Rules, 1962, the learned Single Judge rightly

repelled that contention. That position notwithstanding, we are of the view that even going by first principles, the concept of a Vice-President and the concept of a Vice-Chairman are not different, because it depends on the hierarchal position which is held by the person who is in such office.

5. The aforesaid position notwithstanding, any lack of due application of rule of hearing at the hands of the Deputy Director does not survive the elaborate consideration of all issues of facts and laws by the learned Single Judge after hearing all the parties. The alleged violation of the principles of natural justice does not survive for consideration after the learned Single Judge has rendered the decision assimilating the entire relevant facts and applying the relevant clause.
6. For these aforesaid reasons, we do not find any ground to entertain this intra-court appeal in view of the proviso to Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006. This appeal therefore fails.
7. In the result, this appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE