

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2061 of 2012

- Vindhyachal Jaiswal S/o Late Ram Kewal Jaiswal Aged About 55 Years Village Kochali, P.O. Davra, Tahsil Balrampur, P.S. Balrampur, Dist. Balrampur, Post Master Of Post Office-Davra, Gram Panchayat. Davra, Janapd Panchyt Balrampur, Dist. Balrampur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary. Department of Panchayat and Rural Development, D.K.S. Bhawan, Mantralaya. Raipur, P. S. Civil Civil Raipur, Chhattisgarh
2. Chief Executive Officer, Janpad Panchayat Balrampur, Dist Balrampur, P.S., Balrampur, Chhattisgarh
3. Lokpal Mahatma Gandhi Rastriya Gramin Rojgar Guarantee Yojna, Surguja P.S. Kotwali Ambikapur Dist. Surguja, C.G.
4. Smt. Amina Lakra, Rojgar Sahayika, Gram Panchayat. Davra, P.O. Davra, Dist. Balrampur, Janpad Panchayat Balrampur, District Balrampur, Chhattisgarh

---- Respondents

For Petitioner	Shri Jitendra Shrivastava, Advocate
For Respondent-State	Shri Rajendra Tripathi, PL

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

24/10/2018

1. Petitioner is aggrieved by the order passed by the Ombudsman under the Mahatma Gandhi National Rural Employment Guaranty Act, 2005 (for short 'the Act, 2005'), whereby the Ombudsman has directed lodging FIR against the Sarpanch and Upsarpanch

of Gram Panchayat Dabra, Janpad Panchayat Balrampur, District Balrampur as also against the petitioner, who was working as Post Master in the local Post Office at the relevant point of time.

2. Learned counsel for the petitioner would argue that the impugned order has been passed in violation of principle of natural justice, inasmuch as before passing an adverse order against him, he was not provided any opportunity of hearing.
3. Learned State counsel would submit that the contents of para 4 of the order of the Ombudsman refers to an enquiry by the CEO, Janpad Panchayat Balrampur. Therefore, it appears, in such enquiry, the petitioner was provided opportunity of hearing.
4. Copy of enquiry conducted by the Janpad Panchayat Balrampur has not been placed on record by any of the party. The cause title of the impugned order refers to the Sarpanch and Upsarpanch of Gram Panchayat Dabra and petitioner's name is not mentioned in the cause title nor there is any mention in the entire order that the petitioner was issued show cause notice by the Ombudsman. In the return filed by the respondent Nos.1 to 3, it has been stated in para 5 thereof that the instructions on Ombudsman vide Annexure-R-1 & R-2 make it clear that it encompasses the principle of natural justice while redressing the grievances. Therefore, since it is the stand of the respondents that principles of natural justice are required to be applied by the Ombudsman while holding enquiry for violation of the provisions of the Scheme and the Act, 2005, the impugned order deserves to be set aside on this ground alone.

5. Accordingly, the impugned order is set aside as against the petitioner and the matter is remitted back to the Ombudsman for passing fresh order in accordance with law after providing opportunity of hearing to the petitioner.
6. The writ petition stands allowed to the extent indicated above.

Sd/-

Prashant Kumar Mishra
Judge

Nirala