

`NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3032 of 2007**

Kriparam, son of Shri Ramgopal Nishad, aged about 22 years,
Resident of Village Tillaikunda, Village Panchayat Fari, Block and
Tahsil Bemetara, District Durg (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through: The Secretary, Department of Panchayat and Rural Development, D.K.S. Bhawan, Raipur (C.G.)
2. The Additional Collector, Bemetara, District Durg (C.G.)
3. The Sarpanch, Village Panchayat Fari, Block Bemetara, District Durg (c.G.), at present Meenabai Verma, Sarpanch, Village Panchayat Fari, Block Bemetara, District Durg (C.G.). (Correct Description)
4. The Secretary, Village Panchayat Fari, Block Bemetara, District Durg (C.G.), at present B.N. Bharti, Secretary, Village Panchayat Fari, Block Bemetara, District Durg (C.G.) (Correct Description)
5. Prem Das, Son of Shri Mansharan Satnami, Resident of Village Panchayat Fari, Block and Tahsil Bemetara, Distict Durg (C.G.)

---- Respondents

For Petitioner: Mr. P.P. Sahu, Advocate.
For Respondent/State: Mr. Ashish Surana, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****01/02/2018**

(1) The petitioner's revision, against the order dated 7.1.2007 passed by Gram Panchayat Farri, Block Bemetara, has been rejected by the Additional Collector, Bemera on the ground that no revision or appeal is maintainable against the proposal of Gram Sabha, against which instant writ petition has been filed questioning the same.

(2) Learned counsel for the petitioner would submit that under the provisions of Section 85 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short "Adhiniyam") prescribed authority is the Sub Divisional Officer (Revenue), who has empowered to suspend the resolution of Gram Sabha, therefore, the matter ought to have been referred to the Sub Divisional Officer (Revenue).

(3) Per contra, counsel for the State would support the impugned order.

(4) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(5) Section 85(1) of the Adhiniyam, 1993 provides as under:-

"Power to suspend execution of orders, etc.-(1) The State Government or the prescribed authority may by an order in writing and for reasons to be stated therein suspend the execution of any resolution passed, order issued, licence or permission granted or prohibit the performance of any act by a Panchayat, if in his opinion.-

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised;

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or is contrary to any law; or

(c) (i) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely-

(ii) to be prejudicial to the public health, safety or convenience;

(iii) to cause injury or annoyance to the public or any class or body of persons; or

(iv) to lead to a breach of peace.

(6) A focused glance of the aforesaid provision would show that the prescribed authority for the purpose of suspending the execution of any resolution passed by the Gram Panchayat is concerned Sub Divisional Officer (Revenue).

(7) In view of above, the petitioner is at liberty to make application before the Sub Divisional Officer (Revenue) under Section 85(1) of the Adhiniyam, 1993 within a period of two weeks from today, and that will be considered and decided by the SDO (Revenue) concerned expeditiously keeping in view the fact that order was passed by the Gram Panchayat/ Gram Sabha way back on 7.1.2007.

(8) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

