

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5487 of 2008**

- Govind Singh Paikara and Another Panchayat Karmi Secretary, Gram Panchayat, Jharama, Block-Lailunga, Distt.-Raigarh (C.G.)
- Barat Ram S/o Shri Kartik Ram Panchayat Karmi Secretary, Gram Panchayat, Jharama, Block-Lailunga, Distt.-Raigarh (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Panchayat & Social Welfare Department, D.K.S. Bhavan, Raipur (C.G.)
2. Collector, Raigarh, Distt. Raigarh (C.G.)
3. Sub-Divisional Officer (R) cum Specified Officer Gharghoda Distt. Raigarh (C.G.)

---- Respondents

For Petitioner	:	Shri Manoj Kumar Sinha, Advocate
For State	:	Shri B. Gopa Kumar, Deputy Advocate General

Hon'ble Shri Justice P. Sam Koshy
Order on Board

23.03.2018

1. The petitioners are Panchayat Secretaries posted in different Panchayats within Lailunga Block in Raigarh District. They are aggrieved by the initiation of proceeding against them by the concerned SDO for recovery of the amount under Section 92 of the CG Panchayat Raj Adhiniyam, 1993 on the ground that they were party to the construction raised by the Gram Panchayat which was subsequently found to be inferior or substandard.
2. In similar writ petitions bearing WPC No.5955/2008 (Suknath Ram and others Vs. State of Chhattisgarh and others) and other connected matters preferred by few Ex-Sarpanch of different Gram Panchayat of Lailunga Block, this Court has passed the following order on 20.4.2012:-

“6. Having heard learned counsel for the parties, this Court is of the considered opinion that the nature of defense raised by the petitioners is in the realm of disputed questions of fact which needs to be enquired by the concerned authority and this court in exercise of powers under Article 226 of the Constitution of India may not have jurisdiction to decide disputed questions of fact. Even otherwise, the impugned communication is only a show cause notice.

7. Though no interim order is operative in favour of petitioner yet learned counsel would submit that the amount has not been recovered from them.

8. In view of the above, this writ petition is disposed off with a direction to the petitioners to present a detailed reply before the SDO Revenue along with a copy of this order and the said authority shall consider the reply in accordance with provisions contained under Section 92 (4) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 and shall determine the amount recoverable against the petitioners after giving proper and adequate opportunity of hearing to the petitioners."

3. Accordingly, the present Writ Petition is also disposed of in the same terms.

Sd/-
(P. Sam Koshy)
JUDGE