

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 329 of 2018**

1. Ganraj Singh Kanwar, S/o Late Shankar Lal Kanwar, Aged About 40 Years R/o Ranipur Khurd, Police Station Dipika, District Korba, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. The Collector, Korba, District Korba, Chhattisgarh.

---- Respondent

For Petitioner	Dr. N.K. Shukla, Sr. Advocate with Shri Sushil Dubey, Advocate
For Respondent/State	Shri A.S. Kachhawaha, Addl. Adv. General

Order On Board**By****Prashant Kumar Mishra, J.****19/09/2018**

1. Petitioner is the President of Janpad Panchayat, Pali. He along with one Ajay Jaiswal, Vice President, Zila Panchayat, Korba, were tried for committing offence under Sections 354-A, 186, 174 & 448 of the Indian Penal Code; Sections 7 & 8 of the Protection of Children from Sexual Offences Act, 2012; and Sections 3 (1) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. After the arrest both of them were suspended by the Collector, Korba, under the

provisions of Section 39(1)(b) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the Act, 1993'). Subsequently, both were convicted for some of the offences on 29-8-2017, however, they have been released on bail by the High Court. In the meanwhile, proceedings under Section 40 of the Act, 1993 were drawn against the petitioner on the basis of a report submitted by the District Child Protection Officer and Assistant Commissioner, Tribal Development without holding any fresh enquiry under Section 40 of the Act, 2013.

2. The other person namely; Ajaj Jaiswal was also issued notice under Section 40 of the Act, 1993 and thereafter proceedings were made over to the Director (Panchayat) who passed the final order of his removal which has been set aside by the coordinate Bench this Court by order dated 24-4-2018 passed in WPC No.564 of 2018 for the reason, amongst others, that the Director (Panchayat) did not hold any enquiry under Section 40 (1) of the Act, 1993 and straightaway declared his election as Member of Zila Panchayat as null and void.
3. In the case at hand, the petitioner is the President of Janpad Panchayat, Pali, and has been removed from the office without holding any enquiry under Section 40 (1). The Collector only acted on the report of the District Child Protection Officer and Assistant Commissioner, Tribal Development, but did not conduct any independent enquiry against the petitioner under Section 40 of the Act, 1993, therefore, in view of the order

passed by the coordinate Bench of this Court in WPC No.564 of 2018, the impugned order removing the petitioner from the office of the President, Janpad Panchayat, Pali, also deserves to be and is hereby quashed. However, the competent authority would be at liberty to draw fresh proceedings against the petitioner in accordance with law and on its own merits.

4. In the result, the writ petition is allowed to the extent indicated above.

Sd/-

Judge
Prashant Kumar Mishra

Gowri