

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1100 of 2018**

Smt. Fagani, W/o Shri Samme Lal Sahu, Aged about-43 years, R/o Vill-Bhuigaon,
P.S. & Tah. Pamgarh, Dist- Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through-Secretary Panchayat and Social Welfare Department, New Raipur, Raipur (C.G.)
2. Collector, Janjgir, Distt – Janjgir-Champa (C.G.)
3. Sub Divisional Officer (Revenue), Pamgarh, District Janjgir-Champa (C.G.)
4. Rambilas, S/o Dataram Suryawanshi,
5. Dhruw Kumar, S/o Bitthul Prasad Kaiwart,
6. Narayan, S/o Nathuram Kaiwart,

Respondents No. 1 to 3 R/o Village Bhuigaon, P.S. & Tah. Pamgarh, Distt.
Janjgir – Champa (C.G.)

---- Respondents

For Petitioner : Mr. H.V. Sharma, Advocate.
For State : Mr. Avinash Singh, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/05/2018

(1) The petitioner was elected as Sarpanch of Gram Panchayat Bhuigaon. Respondents No. 4 to 6 made a complaint against him and initiated proceedings under Section 40 of Panchayat Raj Adhiniyam, 1993, which was dismissed on 24.06.2016 by the Sub Divisional Officer (R). Respondents No. 4 to 6 filed an appeal before the Collector there-against. The Collector, Janjgir-Champa, by its impugned order dated 24.11.2017, has remanded the matter to the Sub Divisional Officer (R) for making an

enquiry and to pass reasoned and speaking order in accordance with law, against which instant writ petition has been filed questioning the same.

(2) Learned counsel appearing for the petitioner would submit that the impugned order is unsustainable and without authority of law as the Sub Divisional Authority has no jurisdiction and no authority to remove the petitioner from the post of Sarpanch.

(3) I have heard learned counsel appearing for the petitioner at length.

(4) Learned Collector has only remanded the matter to the Sub Divisional Officer for making enquiry in accordance with law and where the petitioner has raised number of preliminary objections. The petitioner is at liberty to press those objections therein but the instant writ petition as framed and filed is not maintainable on two grounds: (i) no prejudice has been caused to the petitioner by the impugned order remanding the matter to the SDO (R) for making an enquiry (ii) even order of the Collector is revisable under the Panchayats (Appeal and Revision) Rules, 1995, as such, the writ petition is liable to be dismissed as not maintainable.

(5) Accordingly, the writ petition is dismissed as not maintainable. However, the petitioner is at liberty to proceed in accordance with law and make all submissions before the Sub Divisional Officer (Revenue) or prefer revision before the Revisional Authority in accordance with law. No costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-