

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4743 of 2018**

Smt. Rajeshwari W/o Yougal Kishore Miri Aged About 31 Years R/o
Village Borsi Tehsil Bhatapara, District Balodabazar, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan Naya Raipur, District Raipur, Chhattisgarh.
2. Director Panchayat, Panchayat And Samaj Seva, Mahanadi Bhawan Naya Raipur, District Raipur, Chhattisgarh.
3. Additional Collector, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.
5. Programme/Project Officer, Woman And Child Development Project, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.
6. Smt. Heera Kumari W/o Ganga Ram Aged About 47 Years R/o Village Borsi Tehsil Bhatapara, District Balodabazar, Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Manoj Paranjpe, Advocate
For State	:	Mr. R.K. Gupta, Dy. A.G.
For Respondent No.6	:	Mr. Deepak Kumar Jain, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****26/09/2018**

1. The challenge in the present writ petition is to the order dated 11.06.2018 (Annexure P/1) passed by the Commissioner, Raipur division, Raipur in Revision case No. 325/A-89/2017-18.
2. The brief fact in nutshell is that the petitioner was appointed as an Anganbadi worker way back on 14.06.2006. The appointment of the petitioner was challenged by the respondent No.6 before the Collector, who on scrutiny allowed the objection/appeal of the

respondent No.6 and ordered for cancellation of the appointment of the petitioner.

3. The order of the Collector was put to challenge by the petitioner under the then prevailing rules before the Director Panchayat and who in turn had set-aside the order of the Collector restoring the appointment of the petitioner vide order (Annexure P/9) dated 30.09.2008.
4. The order of the Director Panchayat dated 30.09.2008 (Annexure P/9) was questioned by the respondent No.6 in a writ petition i.e. WPS No. 6295/2008, which came up before this Court on 13.02.2018. After hearing the parties, this High Court disposed off the writ petition making the following observations:

“7. The dispute of name in the voter list as well as member of BPL family is a disputed question of fact and conflicting claims have been made by both the parties. Therefore, it would be expedient to remit the matter to the Commissioner, Raipur Division, Raipur who will hear the parties again and in the light of the aforesaid instructions quoted herein-above, decide the same within three months from the date of receipt of a copy of this order. Ordered accordingly.”

5. From the plain reading of the aforesaid observations while disposing of the WPS No. 6295/2008 this Court had set-aside the order passed by the Director Panchayat and had remitted the matter back to the Commissioner for a fresh adjudication of the revision in the light of the instructions quoted in the order of the High Court.
6. However, though the effect of the order was remanding of the matter, but it appears that the respondent No.6 had meanwhile preferred an altogether fresh revision petition before Commissioner

under Section 91(5) of the Panchayat Raj Adhiniyam, 1993 read with Rule 5 of the Chhattisgarh Panchayat Raj (Appeal and Revision) Rules, 1995. The said revision has been registered as a new revision bearing registration No. 325/A-89/2017-18 and impugned order Annexure P/1 dated 11.06.2018 has been passed in the said new revision, which has been decided.

7. The contention of the petitioner is that the subsequent registration of an altogether new revision in the year 2018 was totally impermissible and the authority concerned did not have the power site over the order passed by the Director Panchayat, nor could he act as an Appellate authority. The requirement as the order of the High Court was that the Commissioner should called for the records of the revision which was earlier decided by the Director Panchayat on 30.09.2008 in Revision case No. 241/A-89/2007-08 and thereafter should decide the said revision petition on its merits in the light of the observations made by the High Court on 13.02.2018.
8. Another aspect, which has to be born in mind is the fact that while deciding an altogether new revision petition preferred by the respondent No.6, the earlier revision, which has been filed by the respondent No.6 before the Director Panchayat and which now stands remitted back by the High Court vide its order dated 13.02.2018 would get revived and remain pending.
9. Once when the earlier revision of the petitioner has been revived by the High Court vide its order dated 13.02.2018, the question of another revision petition being filed and being entertained by the Commissioner does not arise at all.

10. The impugned order also is not sustainable for the reason that the revision petition before the Deputy Director was preferred by the petitioner aggrieved of the order of the Collector, which was in favour of the respondent no.6, whereas the impugned order has been passed on the revision petition preferred by the respondent No.6, who could have filed the revision petition as the order of the Collector was in his favour and for this reason, the impugned order is not sustainable.
11. From the perusal of the impugned order also it does not reveal that the Commissioner while passing the impugned order had called upon the records of the revision, which the petitioner had preferred before the District Panchayat, nor has he anywhere mentioned that as a consequence of the decision in the present revision, the earlier revision filed and which has been revived vide order dated 13.02.2018 by the High Court also stands adjudicated along with the impugned order.
12. Given the aforesaid situations, the subsequent revision petition which has been filed by the respondent No.6 and which has been registered as an altogether new revision petition and having being decided would be unsustainable or in other words the second revision was not maintainable at all.
13. For the aforesaid reasons, this Court is of the opinion that the impugned order to that extent is **per se** bad in law, and the second revision petition also for the same reason is not maintainable, holding the second revision not maintainable, the impugned order deserves to be and is accordingly set-aside.

14. Needless to mention that allowing of the present writ petition would not come in the way of the Commissioner in deciding the revision petition on its merits, which the petitioner had filed and which stands revived by the order of the High Court dated 13.02.2018.
15. The liberty would be there for the respondent No.6 to move an appropriate application calling for the record of the revision petition from the office of the Director Panchayat to the Commissioner for a fresh order in accordance with the directives given by this Court in WPS No. 6295/2008 on 13.02.2018.
16. With the aforesaid observations, the writ petition stands allowed and the impugned order stands set-aside.

Sd/-
(P. Sam Koshy)
Judge

Ved