

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3322 of 2018**

- Vrindra Lal Dhivar S/o Shri Ganesh Ram Dhivar Aged About 53 Years R/o Village Post Office, Police Station And Tahsil Malkharauda, Civil And Revenue District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Government Of Chhattisgarh, Mahanadi Bhawan, New Raipur, Civil And Revenue District Raipur Chhattisgarh.
2. Additional Commissioner Bilaspur Division Bilaspur, Civil And Revenue District Bilaspur Chhattisgarh.
3. Collector Janjgir, Civil And Revenue District Janjgir Champa Chhattisgarh.
4. Sub Divisional Officer (Revenue) Sakti, Civil And Revenue District Janjgir Champa Chhattisgarh.

---- Respondent

For Petitioner : Shri Ramesh Nayak, Advocate.
 For Respondent/State : Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****05/12/2018 :**

1. The petitioner would call in question the impugned order (Annexure-P/24) passed by the Additional Commissioner, Bilaspur Division, Bilaspur dismissing his revision application, which in turn was preferred against the appellate order passed by the Collector, Janjgir

Champa on 20.8.2018 and the original order passed by the Sub Divisional Officer (Revenue) Sakti, District Janjgir Champa on 10.5.2018. Under the original order of SDO (Revenue), the petitioner has been removed from the office of Sarpanch in exercise of powers under Section 40 of the CG Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam') and has also been disqualified to hold any office of Panchayat for a period of 6 years.

2. It is argued that the impugned order has been passed in violation of principles of natural justice and that the findings recorded by the SDO (Revenue), Collector and the Additional Commissioner are perverse.
3. On complaint made by the villagers, a preliminary enquiry was conducted against the petitioner wherein it was prima facie found that the petitioner is guilty of committing financial irregularities, as also misappropriation/ embezzlement of Panchayat fund. This was reported by the Tehsildar, Malkharoda in his report dated 13.11.2017 (Annexure-P/3). The petitioner was thereafter served a charge sheet along with show cause notice dated 20.11.2017 for his removal under Section 40 of the Adhiniyam. The petitioner submitted his reply to the show cause notice and thereafter enquiry was conducted and the petitioner was afforded opportunity to cross-examine the witnesses, as reflected in the SDO (Revenue)'s order dated 3.1.2018. The petitioner in fact cross-examined the witnesses on 24.1.2018, 25.1.2018, 29.1.2018, 5.2.2018, 7.2.2018 and 5.3.2018. Thereafter the SDO (Revenue) fixed the matter for final argument and eventually the final order was passed on

10.5.2018.

4. The SDO (Revenue) recorded the categorical findings to the following effect:-

- The petitioner has made payment of Rs.40,000/- for material and Rs.10,000/- towards labour charges but CC road was not constructed.
- The petitioner was involved in illegal felling of trees and disposing corpus without accounting for the amount earned through such disposal.
- Payment has been made to his son Balraj Dhivar and nephew Gajraj Dhivar for Rs.4,01,600/- but both do not possess any shop from which supplies can be made, therefore, this amount has been embezzled, as no supply has been made.
- Rs.1 lakh has been fraudulently withdrawn in the name of Sushil Traders without obtaining any supply.
- Forged bills of Chandra Hardware has been submitted to withdraw Rs.16,900/-, Rs.42,000/- and Rs.50,000/-.
- Forged payment has been shown to have been made to Bhawani Lal Verma by producing forged bills of his General Store Shop.

5. In recording the above finding, the SDO (Revenue) has referred to the statements of shop keepers, villagers and Tehsildar, who conducted preliminary enquiry. These findings are duly supported with material available on record. Therefore, the findings cannot be said to be perverse or illegal. Moreover, the finding has been affirmed in Appeal and Revision by the Collector and Additional Commissioner,

respectively. Thus, there are concurrent findings against the petitioner.

6. The petitioner's argument that principles of natural justice has been violated is not attractive for the reason that after issuance of show cause notice and filing of reply by the petitioner, he has been allowed to cross-examine the witnesses. Thus, there is absolutely no infirmity in the original order or in the appellate or revisional order.
7. It is settled law that the writ Court is not entitled to interfere with the concurrent finding of fact. It is also settled that any person who is guilty of committing fraud with the democratic institutions should not be spared without action against him as contemplated in law. If such persons are not shown the door, faith of public at large on grass root democratic institutions shall be eroded.
8. For all the above stated reasons, the Writ Petition being devoid of any substance deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

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