

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 8337 of 2018**

Smt. Seema Jaiswal W/o Shri Pawan Kumar Jaiswal, Aged About 26 Years, Presently Working As Panchayat Secretary At Village Tungwa P.S. Raghunath Nagar, Janpad Panchayat- Wadrafnagar, District- Balrampur, Chhattisgarh

---- Petitioner**Versus**

1. The State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhavan, New Raipur, P.S.- Rakhi, District- Raipur, Chhattisgarh
2. Collector, Balrampur/Ramanujganj, District- Balrampur/Ramanujganj, Chhattisgarh
3. Zila Panchayat Balrampur/Ramanujganj Through CEO Zila Panchayat Balrampur/Ramanujganj, District- Balrampur, Chhattisgarh
4. Sub Divisional Officer (Revenue) Wadrafnagar, District- Balrampur, Chhattisgarh
5. Senior Engineer, Internal Audit And Tax Officer, Janpad Panchayat, Wadrafnagar, District- Balrampur/Ramanujganj, Chhattisgarh
6. Sub Divisional Magistrate, Wadrafnagar, District- Balrampur, Chhattisgarh
7. Rajo Shyamley Presently Working As Sarpanch At Gram Panchayat Tungwa P.S. Raghunath Nagar, Janpad Panchayat, Wadrafnagar, District- Balrampur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. D. N. Prajapati, Advocate
For State	:	Mr. S. P. Kale, Dy. Advocate General

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

14/12/2018

The challenge in the present writ petition is to the charge sheet dated 20.10.2018 and a warrant of arrest issued against the petitioner for non-cooperating with the Department in as much as for not submitting the records which were available with the petitioner.

2. The facts of the case are that the petitioner was working as a Panchayat Secretary at Gram Panchayat Tungwa under Janpad Panchayat Wadrafnagar, District Balrampur.

3. Contention of the counsel for the petitioner is that the petitioner has not been provided with sufficient materials which the respondents have collected in the course of preliminary enquiry in respect of the alleged misconduct committed by the petitioner and without those documents it would be difficult for the petitioner to submit a detailed reply to the charges levelled against her. He further submits that the authority concerned has also showed a haste in issuance of the warrant of arrest against the petitioner.

4. Given the nature of allegation as is evident from reading of the imputation of charges, this Court is of the opinion that under the given circumstances it would not be proper for this Court to hold a roving enquiry in exercise of its writ jurisdiction conferred on it. The allegations are such which require evidences and which can be proved and established only from the documents available with the Department.

5. It is settled position of law that the High Court in exercise of its power under Article 226 of the Constitution of India would not substitute itself as a Disciplinary Authority or for that matter the First Appellate Authority to venture into the veracity of the charges and decide whether the charge has been made out or not. It is always expected that when a charge sheet is issued, the delinquent would be tendering reply to the charge sheet either

accepting the charge or denying the charge. If the petitioner's reply is not satisfactory only then the Department would go in for a detailed departmental enquiry. It could also be a case where the reply submitted by the delinquent is found justifiable and satisfactory, the Department may drop the proceedings also.

6. In the instant case, it appears that the petitioner has not filed detailed reply neither has she produced the records which she has which led to the issuance of the warrant of arrest.

7. Given the aforesaid factual matrix of the case, this Court is of the opinion that the nature of allegations being quite serious and the repercussions also being quite serious, ends of justice would meet if the petitioner is given a further period of 15 days time from the date of receipt of copy of this order to submit a detailed reply to the charge sheet supported with all relevant records and documents that the petitioner has for her defence. The respondents thereafter may proceed further with the departmental enquiry in accordance with the rules and regulations.

8. Needless to mention that since the petitioner is being granted a further period of 15 days time for submission of her reply and for producing the records, it is ordered that the respondents shall not pursue with the warrant of arrest which has been issued against the petitioner till the period of 15 days time during which the petitioner has to submit her reply with all relevant documents before the competent authority. In case the petitioner fails, the respondents would be at liberty to revive the proceeding in accordance with law.

Certified copy today.

**Sd/-
(P. Sam Koshy)
Judge**