

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3428 of 2017

Dhal Sahu S/o Shri Jambeshwar Sahu Aged About 41 Years
Sarpanch Gram Panchayat Dulna, R/o Village Dulna, Post Office
Patewa, Police Station Gobra Nawapara, Tahsil Abhanpur, District
Raipur Chhattisgarh. **--- Petitioner**

Versus

1. State of Chhattisgarh through the Secretary Panchayat Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. Joint Director Panchayat And Samaj Kalyan, Raipur, District Raipur , District : Raipur, Chhattisgarh
3. Collector, Panchayat, Raipur, District : Raipur, Chhattisgarh
4. Sub Divisional Officer Revenue Prescribed Officer Abhanpur, District Raipur , Chhattisgarh
5. Chief Executive Officer, District Panchayat, Raipur, District : Raipur, Chhattisgarh
6. Chief Executive Officer, Janpad Panchayat, Abhanpur, District Raipur Chhattisgarh.
7. Gopal Sahu R/o Village Dulna, Post Office Patewa, Police Station Gobra Nawapara, Tahsil Abhanpur, District Raipur Chhattisgarh. **--- Respondents**

For the Petitioner	:	Mr. Awadh Tripathi, Advocate
For the State	:	Mr. Sudip Verma, Dy. G.A.
For Respondent No.7	:	Mr. D.N. Prajapati, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

29.04.2019

1. The petition is against the order dated 27.11.2017 passed by the Sub-Divisional Officer, Abhanpur whereby the petitioner was suspended from the post of Sarpanch on the ground that he has committed certain anomalies in dealing with

allotment of sand mines by not complying with the provisions of Section 40(A) of the Panchayat Raj Adhiniyam Act, 1993.

2. It is contended that on a complaint made, a proceeding u/s 40 of the Chhattisgarh Panchayat Raj Adhiniyam Act was initiated wherein the case was proceeded on day to day basis and when the case was at the stage of evidence statements of few of the witnesses were recorded and cross examination of the parties were conducted. The case was taken up for hearing on 25.10.2017 and was fixed for evidence on 06.11.2017. However, on 13.11.2017, all of a sudden, the case was fixed for preliminary order and thereafter, the preliminary order was passed on 27.11.2017. It is stated that procedural illegality has been committed and the order is without jurisdiction since the SDO has already commenced the hearing. Therefore, he submits that when the case was fixed for evidence on different dates, all of a sudden, it could not have passed the order of suspension.
3. Counsel for the respondents vehemently opposes the same.
4. Perused different revenue order sheets filed along-with the petition. The preliminary orders which are relevant here shows that on 25.10.2017, the case was fixed for evidence of the parties and before that certain statement by way of evidence was filed by the respective parties. On 25.10.2017 the case was fixed for evidence of parties and hearing on 6.11.2017. However, the order sheets show that instead of taking up the case on 06.11.2017, it was taken up on 13.11.2017 and on 13.11.2017 the matter was fixed for preliminary order and eventually the order dated 27.11.2017 was passed. Prima facie reading of the revenue order sheets

would show that the procedural irregularities has been committed by the SDO. Once the Court has proceeded to record the statement it has started exercising jurisdiction u/s 40 of the Panchayat Raj Act and when the case was fixed for evidence on 06.11.2017 it could not have further reverted back on 20.11.2017 for passing preliminary order. The preliminary order was subsequently passed on 27.11.2017, therefore, a perusal of the order sheets of the court below shows that gross procedural irregularities has been committed which is apparent on the face of record and it makes the order without jurisdiction.

5. In the circumstances, the order dated 27.11.2017 passed by the SDO, Abhanpur is quashed. The matter is remitted back to the Court of SDO to decide original case as the evidence is already commenced according to the order sheets. The SDO shall be further obliged to decide the case within a period of 45 days from the date of receipt/ production of a certified copy of this order.
6. With the above observation/direction, this petition stands finally disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**