

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 2606 of 2019**

Ku. Bamleshwari Chouhan D/o Late Bhurudev Chouhan, Aged About 35 Years, R/o Village - Batau Pali, Post-Goda, Tahsil- Sarangarh, District- Raigarh, Chhattisgarh

---- Petitioner

Versus

1. Ku. Kekti Sidar D/o Alekhram Sidar, R/o Bataupali-B, Tahsil Sarangarh, District- Raigarh, Chhattisgarh
2. Chief Executive Officer, Janpad Panchayat Sarangarh, District- Raigarh, Chhattisgarh
3. Project Officer, Akikrit Balvikash Pariyojana, Sarangarh, District- Raigarh, Chhattisgarh
4. Additional Commissioner, Bilaspur Division, District Bilaspur, Chhattisgarh

---- Respondents

For petitioner : Mr. Vivek Tripathi, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/04/2019

1. Counsel for the petitioner makes an oral request for impleading the Additional Commissioner, Bilaspur Division, Bilaspur as a necessary party to the present writ petition.
2. Not opposed.
3. Accordingly, the oral request is accepted. Let necessary amendment be carried out during the course of the day.
4. The challenge in the present writ petition is to the order Annexure P-1 dated 13.03.2019 whereby the Additional Commissioner has

vacated the ex-parte stay granted in an appeal preferred by the petitioner on 02.07.2018.

5. The facts of the case are that the petitioner was appointed as an Anganbadi worker at Anganbadi Centre, Bataupali. The appointment of the petitioner was challenged by respondent no.1 before the Collector by way of an appeal. The appeal stood allowed on 05.06.2018 and the Collector has set aside the appointment of the petitioner. The order of the Collector was thereafter challenged by the petitioner by way of an appeal before the Commissioner vide Appeal No. 50A-89/2017-18 and the Commissioner granted an interim protection initially on 02.07.2018 and notices were issued to the respondents. Meanwhile, respondent no.1 entered appearance and submitted before the Commissioner that she had already filed a caveat application which was also received by the petitioner and therefore, the ex parte interim order dated 02.07.2018 should not have been passed by the Additional Commissioner without hearing respondent no.1 and therefore requested for vacating the ex-parte order dated 02.07.2018. It is this application which has been entertained by the Additional Commissioner and the impugned order dated 13.03.2019 has been passed which has led to the filing of the instant writ petition.
6. Counsel for the petitioner submits that once when the Additional Commissioner had granted interim protection and the same was in operation for a period of well over 6 months, the Additional Commissioner should not have vacated the order rather should have decided the appeal on merit.

7. Having heard the contention of the counsel for the petitioner, this Court is of the opinion that the contention of the petitioner has some force in it for the reason that from the record it appears that from 02.07.2018 to 13.03.2019 an interim order was in operation in favour of the petitioner. The commissioner should have made efforts in deciding the appeal itself at the earliest. The commissioner for deciding the application for vacating stay and for deciding the appeal would have consumed the same time.
8. Given the aforesaid matrix of the case, this Court is of the opinion that ends of justice would meet if the Additional Commissioner is directed to ensure that the appeal of the petitioner is decided on its merit at the earliest if possible on the next date of hearing itself.
9. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE