

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 256 of 2019**

Shrimati Sumitra Otti W/o Hiralal Otti, Aged About 47 Years R/o Village Mahud
District Uttar Baster, Kanker Chhattisgarh., District : Kanker, Chhattisgarh

----Appellant

Versus

1. State Of Chhattisgarh Through The Commissioner Bastar Division, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
2. Collector, Uttar Bastar, Kanker District Uttar Bastar, Kaker Chhattisgarh., District : Kanker, Chhattisgarh
3. Sub Divisional Officer (Revenue) Uttar Bastar, Kanker District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
4. Shrimati Kalin Sahu W/o Chabilal Sahu R/o Village Mudkhusra, Gram Panchayat Mahud, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
5. Dineshwari W/o Puranram R/o Village Mudkhusra, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
6. Rohit Kosariya S/o Latel Ram, R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
7. Shankar Padoti, S/o Ghaduram Padoti, R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
8. Kailash Netam S/o Aaju Ram Netam, R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
9. Shrimiti Kameshwari Matiyara W/o Chagan Matiyara, R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
10. Shrimati Yashoda Hirwani, W/o Shankar Hirwani, R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
11. Shrimati Radhabai Shori, W/o Jagnu Ram Shori , R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh
12. Khiluram Kadha S/o Pusuram Khadha, R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker

Chhattisgarh., District : Kanker, Chhattisgarh

13. Shrimati Savitri Kadha W/o Mahendra Khadha, R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh., District : Kanker, Chhattisgarh

---- Respondents

For Appellant	:	Shri Shobhit Koshta, Advocate
For State/respondent	:	Shri Gagan Tiwari, Dy. G.A.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Manindra Mohan Shrivastava, Judge

Order On Board

Per Manindra Mohan Shrivastava, J.

14/05/2019

Heard.

1. This intra-court appeal is directed against order dated 20.03.2019 passed by learned Single Judge, whereby, the petition filed by the appellant aggrieved by the order of removal and dismissal of revision has been dismissed.

2. The appellant while working as Sarpanch of Gram Panchayat, was proceeded against under Section 40 of the C.G. Panchayat Raj Adhiniyam, 1993 on certain allegation of misconduct relating to financial irregularity that he has disbursed public fund in favour of those whose name did not figure in the resolution of Gram Panchayat for payments. The SDO after giving show cause notice and obtaining reply, passed an order of removal of the appellant from the office. Aggrieved by the order, the appellant availed statutory remedy before the higher authorities and having failed, filed writ petition before this Court which came to be dismissed as stated above.

3. Assailing legality and validity of the aforesaid order, learned counsel for the appellant would argue that the learned Single Judge fell in error in not appreciating that the order of removal was passed in utter violation of principles of natural justice in as

much as the relevant documents which were collected during enquiry including enquiry report were not supplied to the appellant and that incapacitated, the appellant to come out with effective reply in rebuttal of the allegations against him. He would further submit that had an opportunity been afforded to the appellant, he would have satisfied the authority that all the business with regard to payments by issuance of cheque in exercise of his power under Sarpanch of Gram Panchayat was transacted in accordance with the financial rule and as per the resolution passed by the Gram Panchayat.

4. We have gone through the order passed by learned Single Judge and records of the case.

5. A clear finding has been recorded by learned Single Judge in para 5 of its order that it goes as an undisputed position on record that in the Agenda No.3 of Gram Panchayat meeting, the payments were directed to be released in favour Bajrang Traders. Learned Single Judge also held that the records show that there is no resolution for payment of amount to Hemuram Sahu and similarly, there was no resolution in the said meeting of panchayat for making payment of Rs.1,82,000/- to Vishnuram or even to Swastic Steel, Charama.

6. Learned counsel for the appellant could not satisfy this Court with reference to any document forming part of writ petition much less specific averment in the writ petition that that the names of those persons were included and mentioned in the resolution of Gram Panchayat for disbursement of payment against certain works of Panchayat. Though, it has been stated that the appellant's defence was that Hemuram Sahu was one of the employee of Bajrang Traders, as far as disbursal of payment of Rs1,82,000/- by issuance of cheque by the appellant in favour of Vishnuram and Swastic Steel, he has no explanation whatsoever in the matter. In the absence of any specific averment in the writ petition or any document placed before us that the

resolution contained the name of Vishnuram or Swastic Steel for disbursal of payment, it becomes an undisputed position that the appellant had directed release of amount by issuance of cheque in favour of those who were not authorized to receive the amount under the resolution of the Gram Panchayat.

7. Though, it is submitted that the enquiry under Section 40 was defective in as much as all the documents which constituted adverse material against the appellant were not supplied to him, on facts, we are satisfied that present is a case of foregone conclusion and it is covered under exception where a party may not be entitled to discretionary relief under Article 226 of the Constitution of India on mere violation of principle of natural justice. This is one of such case.

8. Therefore, in our opinion, no case is made out for interference with the order passed by learned Single Judge. The appeal fails and is accordingly dismissed.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Manindra Mohan Shrivastava)
Judge