

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1796 of 2018**

- Smt. Shailendri Bai W/o Shri Rajkumar Yadav, Aged About 35 Years Sarpanch Gram Panchayat Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat, Mantralaya, Mahanadi Bhawan, New Raipur Chhattisgarh.
2. Collector Mungeli, District Mungeli Chhattisgarh.
3. Radhuvar S/o Kundan Das Satnami, R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
4. Bhuwan S/o Jagdish Satnami, R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
5. Khilendra S/o Madku Das Satnami R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
6. Parmeshwar, S/o Kundan Das Satnami, R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
7. Santosh Kumar Mohle, S/o Sundar Das, (Panch) R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
8. Smt. Rupai Bai, W/o Santosh Kumar, (Panch) R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
9. Smt. Shiv Kumari, W/o Rupdas Dahriya, (Panch) R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
- 10.Chainudas Tandon, S/o Kejha, (Panch) R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
- 11.Manidas Patre, S/o Tilak, (Panch) R/o Village Baijalpur, Tahsil Lormi, District Mungeli Chhattisgarh.
- 12.Additional Commissioner, Bilaspur, Division Bilaspur Chhattisgarh.
- 13.Sub Divisional Officer, Lormi, District Mungeli Chhattisgarh.

---- Respondent

For Petitioner : Shri PK Patel, Advocate.
For Respondent/State : Shri HS Ahluwalia, Deputy AG.
For Respondents 7 to 11 : Shri Devesh G. Kela, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/01/2019 :

1. The petitioner has been removed from the office of Sarpanch, Gram Panchayat Baijalpur, Tehsil Lormi, District Mungeli in exercise of powers under Section 40 of the CG Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam') on the allegation that as against expenditure of Rs.15,12,000/- for construction of 126 toilets, she has incurred expenditure of Rs.19,92,000/-. Thus she has misused the funds of Gram Panchayat to the tune of Rs.4,80,000/- by spending more amount than the prescribed amount.
2. Learned counsel for the petitioner would submit that there being no allegation of not using the amount and/or for retaining the amount for her personal use, the allegation does not amount to commission of misconduct within the meaning of term used in Section 40 of the Adhiniyam.
3. Per contra, learned State Counsel and learned counsel for respondents No.7 to 11 would submit that once the fact of spending more than the prescribed amount has been proved, the same by itself amounts to

misconduct. They would submit that no case for interference with the concurrent orders passed by the SDO (Revenue) and the Additional Commissioner, Bilaspur Division is made out.

4. Admittedly, the toilets were to be constructed at the rate of Rs.12,000/- per toilet and the petitioner was supposed to spend Rs.15,12,000/- only. By exceeding the amount, she has misused a sum of Rs.4,80,000/-, as it was for her to have explained that the said amount was necessary to be used for smooth completion of the construction of toilets. It is also to be seen that the financial discipline requires that when a particular project is to be completed within the prescribed limit of funds, the same has to be performed within that limit unless escalation in the cost is provided, which is duly sanctioned by the competent authority. It is necessary for the reason that any office bearer of Panchayat may spend exaggerated amount for construction without actually using the additional amount. Spending more than the prescribed amount is thus capable of being misappropriated. Whether or not the amount has been misappropriated is another issue.
5. In the considered opinion of this Court, if allegation of misappropriation has not been levelled, the same is for saving the petitioner because in that event the petitioner would have invited lodging of FIR. However, once financial indiscipline is proved, the same would thus become misconduct and the petitioner has rightly been removed from the office.
6. There is no scope for interference with the concurrent orders passed by the subordinate authorities in view of the observations made by the

Supreme Court in the matter of **B.K. Muniraju v State of Karnataka and Others**¹.

7. There is no substance in the Writ Petition, the same deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve

¹ (2008) 4 SCC 451