

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2187 of 2019

1. Kishore Kumar Karsh S/o Shri Rohit Kumar Karsh Aged About 40 Years Panch Of Gram Panchayat Pawani, R/o Ward No. 16, Sadakpara Pawani Thana And Tahsil - Bilaigarh, Civil And Revenue District - Balodabajar - Bhatapara Chhattisgarh.

2. Chandrapal Yadav S/o Late Shri Mohitram Ram Yadav Aged About 48 Years Panch Of Gram Panchayat Pawani, R/o Ward No. 10 Near Bus Stand Pawani, Thana And Tahsil - Bilaigarh - Civil And Revenue District - Balodabajar - Bhatapara Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary Panchayat And Rural Development Department Mahanadi Bhawan, Capital Complex Atal Nagar New Raipur, District - Raipur Chhattisgarh.

2. Commissioner Raipur Division Raipur, District Raipur Chhattisgarh.

3. Sub Divisional Officer (Revenue) Bilaigarh District - Balodabajar - Bhatapara Chhattisgarh.

4. Chief Executive Officer Janpad Panchayat Bilaigarh District - Balodabazar - Bhatapara Chhattisgarh.

5. Smt. Pinbai Sahu (Ex - Sarpanch) Gram Panchayat Pawani, Thana And Tahsil - Bilaigarh Civil And Revenue District - Balodabajar - Bhatapara Chhattisgarh

---- Respondents

For petitioner – Shri Sunil Sahu, Advocate.

For State -Shri Sudeep Verma, Dy.G.A. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

03/07/2019

Heard.

1. Learned counsel for the petitioners submits that respondent No.5 Smt. Pinbai Sahu was removed in exercise of power under Section 40 of the Chhattisgarh Panchayat Raj, Adhiniyam, 1993. As against such order, she instead of filing appeal under the C.G. Panchayats (Appeal and Revision) Rules, 1995 she filed an appeal before the Commissioner on 4/06/2019. Subsequently, even during pendency of such appeal before the Commissioner an appeal was preferred before the Collector on 10/06/2019 wherein notices were issued to the

petitioners for appearance on 27/06/2019. In the meanwhile, by suppression of fact though appeal was pending before the Collector, in the earlier appeal which was filed before the Commissioner, an application for stay was preferred wherein the Commissioner without appreciating the fact has directed for status quo on 19/06/2019. Learned counsel for the petitioners would submit that appeal before the Commissioner against the order of SDO would be barred as per C.G. Panchayats (Appeal and Revision) Rules, 1995 and it is submitted that it is the Collector who has the jurisdiction to decide the appeal against any order of SDO.

2. Perusal of the order dated 19/06/2019 would show that status quo has been ordered. The legal question about the maintainability of the appeal still remains to be answered which are to be factually ascertained. If the petitioner had filed an appeal before the Collector as per Rules of 1995 supra, another appeal before Commissioner who is revisional authority how would be maintainable under the Rules 1995. Since the respondent No.5 is not yet noticed and keeping the petition pending would only amount to protract the proceedings. Petitioner is given liberty to raise these ground of maintainability as per statute and rules framed before the Commissioner on the next date and shall also be at liberty to raise all the grounds before the Commissioner while hearing the appeal No.123-A/89 year 2018-2019 wherein respondent is represented.

3. With such observation, the petition is disposed of. Commissioner shall be obliged to decide the grounds raised by the petitioners within a further period of 45 days from the date of receipt of the order.

Sd/-
(Goutam Bhaduri)
JUDGE

