

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 3277 of 2017**

- Shrimati Sumitra Otti W/o Hiralal Otti, Aged About 47 Years R/o Village Mahud District Uttar Bastar, Kanker Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Commissioner Bastar Divisio, Jagdalpur, Chhattisgarh
2. Collector, Uttar Bastar, Kanker District Uttar Bastar, Kanker Chhattisgarh
3. Sub Divisional Officer (Revenue) , Uttar Bastar, Kanker District Uttar Bastar, Kanker Chhattisgarh
4. Shrimati Kalin Sahu, W/o Chabilal Sahu R/o Village Mudkhusra, Gram Panchayat Mahud, District Uttar Bastar, Kanker Chhattisgarh
5. Dineshwari, W/o Puranram R/o Village Mudkhusra, District Uttar Bastar, Kanker Chhattisgarh
6. Rohit Kosariya S/o Latel Ram
7. Shankar Padoti, S/o Ghaduram Padoti
8. Kailash Netam S/o Aaju Ram Netam
9. Shrimiti Kameshwari Matiyara, W/o Chagan Matiyara
10. Shrimati Yashoda Hirwani, W/o Shankar Hirwani
11. Shrimati Radhabai Shori, W/o Jagnu Ram Shori
12. Khiluram Kadha S/o Pusuram Khadha
- 13.** Shrimati Savitri Kadha W/o Mahendra Khadha
- 14.** Respondent No.6 to 13, All R/o Village Mahud, Gram Panchayat Mahud, Janpad Panchayat Charama, District Uttar Bastar, Kanker Chhattisgarh

---- Respondent

For Petitioner
For Respective
Respondents

Mr. Shobhit Koshta, Advocate
Mr. Ashish Surana, Panel Lawyer and
Mr. Sandeep Shrivastava, Advocate

Order On Board By

Hon'ble Mr. Justice Prashant Kumar Mishra

20/3/2019

1. Heard.
2. The petitioner would call in question the revisional order passed by the Commissioner, Bastar Division, affirming the appellate order passed by the Collector, North Bastar, Kanker and the original order passed by the Prescribed Authority i.e. SDO(R), North Bastar, Kanker removing the petitioner from the office of Sarpanch, Gram Panchayat Mahud, Tehsil Charama, District North Bastar, Kanker, in exercise of powers under Section 40 of the C.G. Panchayat Raj Adhiniyam, 1993.
3. The petitioner was issued show cause notice to answer the charges including the charge of commission of financial irregularities by making payment of Rs.5,46,000/- to one Hemuram Sahu even though the resolution of the Panchayat was for payment of the amount to Bajrang Traders and issuance of cheque of Rs.1,82,000/- in favour of Panch Vishnuram, for

which, there was no resolution of the Panchayat and as a matter of fact, Vishnuram had given proof of supply of cement and *Gitti* by Swastic Steel, Charama.

4. Record of the proceedings drawn by the SDO(R), North Bastar, is available.
5. The record contains resolution of the Gram Panchayat in its meeting dated 17.10.2015. Agenda No.3 discussed in the said meeting refers to the name of Bajrang Traders for payment of Rs.5,46,000/-. Thus, there is no resolution for payment of the amount to Hemuram Sahu. Similarly, there is no resolution in the said meeting for payment of Rs.1,82,000/- to Vishnuram or even to Swastic Steel, Charama. Hence, this payment has also been made without there being any resolution of the Gram Panchayat.
6. Even if other charges against the petitioner were concerning the routine affairs and the rumblings between the Panchayat and the Sarpanch, the above stated charges amount to commission of financial irregularities.
7. The argument raised by learned counsel for the petitioner that in the enquiry held by the Jila Panchayat, the petitioner was not noticed, therefore, there is violation of principles of natural justice, would not come to the petitioner's rescue for the fact that based on the said finding, a show cause notice was issued to the petitioner, to which, the petitioner could have answered by submitting proof of payment made to Hemuram Sahu and

Vishnuram in accordance with the resolution of the Gram Panchayat, however, no such material was brought to the notice of the Prescribed Authority or even before this Court.

8. The petitioner would refer to the decision rendered by the MP High Court in the matter of **Kailashchandra Jain Vs. State of M.P. and others, 2002(5) M.P.H.T. 524** for the proposition that the enquiry must be held in the presence of the petitioner. He would also refer to the judgment rendered by this Court in the matter of **Smt. Kamti Bai Manglu Ram Vs. State of Chhattisgarh and others, ILR 2018 Chhattisgarh 417.**
9. Without disputing the propositions, it is important to bear in mind that the petitioner was guilty of committing financial irregularities. The preliminary enquiry by the Jila Panchayat was only to ascertain as to whether there is any *prima facie* substance in the allegations levelled by the complainant before the SDO(R).
10. The present is a case where the payment of amount to Hemuram Sahu and Vishnuram was a fact, which could have been dislodged by submitting proof in the shape of passing of resolution by the Gram Panchayat.
11. In the enquiry before the SDO(R), the petitioner was issued show cause notice bringing to her knowledge the above fact concerning financial irregularities. Therefore, it is not a case where the petitioner was not noticed in the enquiry before the SDO(R).

12.In the facts and circumstances of the case, I do not find any violation of principles of natural justice. There is no substance in the writ petition. It fails and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

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