

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2375 of 2019**

1. Shiv Kumar Kurre, S/o. Pheru, Aged About 42 Years, Working as Sarpanch, Gram Panchayat- Kuwamalgi.
2. Govind Sahu, S/o. Sidhram, Aged About 42 Years, Working as Panch, Gram Panchayat- Kuwamalgi.
3. Ramanuj Yadav, S/o. Amer Singh, Aged About 42 Years, Working as Panch, Gram Panchayat- Kuwamalgi.

All R/o. Village Kanjhoti, Tahsil- Pandariya, District- Kabirdham, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Panchayat, Mantralaya, Mahanadi Bhawan, New Raipur, District- Raipur, Chhattisgarh.
2. The Commissioner, Durg Division, District- Durg, Chhattisgarh.
3. The Additional Collector Kabirdham, District- Kabirdham, Chhattisgarh.
4. The Sub Divisional Officer (R) Prescribed Authority, Pandariya, District- Kabirdham, Chhattisgarh.
5. Nayab Tahsildar, Kunda, Tahsil- Kabirdham, District- Kabirdham, Chhattisgarh.
6. Krishan Lal Sonwani, S/o. Hariram, Suspended Sarpanch, Kuwanmalgi, R/o. Village Kanjhoti, Tahsil Pandariya, District- Kabirdham, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Vikash Shrivastava, Advocate
For State/Respondents No.1 to 5.	:	Ms. Astha Shukla, Panel Lawyer
For Respondent No.6	:	Mr. Santosh Bharat, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15.07.2019

1. Learned counsel for the petitioners impugns the order dated 20.05.2019 passed by the Commissioner against the order dated 11.06.2018 passed by the Collector. The impugned order was passed in a revision preferred by the petitioners.
2. The facts as would reveal that the respondent No.6 was suspended vide order dated 27.11.2017 by the S.D.O. in exercise of power under Section 40

of the Chhattisgarh Panchayat Raj Adhiniyam, 1993. Subsequent to such suspension, it was subject of challenge before the Collector and the Collector vide order dated 11.06.2018 has set aside the order of suspension. The petitioner No.1 who was appointed as temporary/ adhoc Sarpanch challenged the same before the Commissioner by filing the revision under the Chhattisgarh Panchayat (Appeal & Revision) Rules, 1995 and the said revision was dismissed. Hence this petition.

3. Learned counsel for the petitioners would submit that initially when the revision was filed by the petitioners while considering the facts *prima facie* it was found that the respondent No.6 was guilty of misconduct which would be evident from the order dated 03.07.2018 (Annexure P-6). It is further submitted that however during the final orders were passed, the same fact was not considered about the involvement of the respondent No.6 into different irregularities; therefore, the order is completely without any appreciation. He went through the interim stay order dated 03.07.2018, which was passed by the Commissioner while the initial revision was filed and also the final order dated 20.05.2019 and submits under the circumstances, the petition is liable to be allowed.
4. Learned counsel for the respondent No.6 vehemently opposes the argument advance by the petitioners and the State counsel also submits that the order dated 20.05.2019 passed by the Commissioner is well merited which do not call of any interference.
5. Heard learned counsel appearing for the parties.
6. Perused the order dated 20.05.2019 as also the interim stay order dated 03.07.2018. While passing the interim order, the Court only considered *prima facie* case and the other aspects and any observation cannot be held to be a finding when the final orders have been passed on 20.05.2019, therefore interim order would merge into final order. Even reading of the

interim order does not spell out any admitted misconduct on the part of the respondent No.6. Reading of the order dated 20.05.2019 would show that the Commissioner after examination of the entire record, came to a finding that proper opportunity of hearing was given and finding of the Collector was not based on any perversity; therefore, the revisional Court while exercising the jurisdiction held so and dismissed the revision filed, thereby upheld the order of the Collector. Conclusively therefore two findings of fact are against the petitioner. There is nothing on record to hold that any such two findings of fact are perverse. Further perusal of the order shows that opportunity of hearing was given in entirety, therefore, re-appreciation by this Court cannot be called for as this Court cannot sit as an appeal over the order of finding of fact by the two authorities below, unless some perversity is shown and shown to be writ large on the face of record. Under the circumstances, I do not find any reason to entertain this writ petition.

7. Accordingly, the writ petition is dismissed being devoid of merit.

Sd/-
Goutam Bhaduri
Judge