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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 331 of 2019**

{Arising out of Order dated 03.07.2019 passed in Writ Petition (C) No. 2187 of 2019 by the learned Single Judge}

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 Yadav, Aged about 48 years, Panch of Gram Panchayat Pawani, R/o Ward No. 10, Near Bus Stand Pawani, Thana and Tahsil Bilaigarh, Civil & Revenue District Balodabajar-Bhatapara (Chhattisgarh)

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

---- Respondents

For Appellants	: Ms. Sharmila Singhai, Advocate.
For State/Respondents No. 1 to 3	: Shri Siddharth Dubey, Deputy Government Advocate & Shri Priyank Rathi, Panel Lawyer
For Respondent No. 4 and 5	: None

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Parth Prateem Sahu, J.****13/08/2019**

1. The Appellants are aggrieved by order dated 03.07.2019 passed by the learned Single Judge in Writ Petition (C) No. 2187 of 2019, whereby the learned Single Judge has disposed of the writ petition directing the Appellants/Petitioners to approach the Commissioner and raise all the grounds which have been raised in the writ petition.

2. The brief facts of the case are that the Sub Divisional Officer (Revenue) Bilaigarh, District Balodabazar-Bhatapara, passed an order under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 against the Respondent No. 5 on 31.05.2019 removing her from the post of Sarpanch. The Respondent No. 5 initially preferred an appeal before the Collector, Bhatapara-Balodabazar, but looking to the strike of the Advocates at Balodabazar, she preferred an appeal before the Commissioner. The appeal preferred before the Collector was withdrawn by the Respondent No. 5.
3. Though, the Appellants/Petitioners appeared before the Commissioner on caveat and raised objection that appeal before the Commissioner itself was not maintainable, their objection were not taken into consideration. The Commissioner, while hearing the appeal on admission, allowed the interim application and granted an order of stay in favour of Respondent No. 5. Passing of the interim order without considering the objection raised by the Appellants led to filing of a writ petition before the learned Single Judge by way of Writ Petition (C) No. 2187 of 2019, which stood disposed of directing the Commissioner to decide the grounds raised by the Appellants within a stipulated period of time.
4. Learned counsel for the Appellants submits that the learned Writ Court has not taken into consideration the fact that the Commissioner is not having the appellate jurisdiction under the provisions of the Adhiniyam, 1993 and the rules framed thereunder. Any order passed by the Sub Divisional Officer is appealable before the Collector.
5. On the last date of hearing, we had directed the learned counsel for the parties to enquire as to the pendency of the appeals before the Commissioner as well as the Collector. It has been informed by the learned counsel for the State that the the appeal preferred before the Collector has

already been withdrawn by the Respondent No. 5 on 08.07.2019 and that the appeal preferred before the Commissioner has been dismissed on 29.07.2019 vacating the interim order of stay which was impugned in the writ petition.

6. In the aforesaid facts and circumstances of this case, at present, there is no appeal pending before any of the authorities. As the grievance of the Appellants/Petitioner was only with respect to pendency of the appeal before Commissioner and grant of interim stay in favour of the Respondent No. 5 which does not subsist as of now by dismissal of the appeal itself by the Commissioner on 29.07.2019, we do not find any justifiable reason to entertain this appeal any further as the grievance of the Appellants/Petitioners already stands redressed.
7. In view of the above, the appeal is liable to be and is accordingly dismissed.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE