NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 332 of 2019

{Arising out of order dated 20.06.2019 passed by learned Single Judge in Writ Petition (C) No. 2018 of 2019}

- Smt. Gyan Bai W/o Dujeram Khute Aged About 38 Years Caste Satnami, Gram Panchayat Durpa, Post Tusma, Tehsil Nawagarh, Civil And Revenue District - Janjgir – Champa, Chhattisgarh.

---- Appellant

Versus

1. Govind Banjare S/o Setram Banjare Aged About 33 Years Gram Panchayat Durpa Ward No. 5, Post Tusma, Tehsil Nawagarh, Civil And Revenue District - Janjgir Champa, Chhattisgarh.
2. Ram Gulal Banjare S/o Bharat Banjare Aged About 45 Years, Panch, Gram Panchayat Durpa Ward No. 3, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
3. Mohit Ram Aditya S/o Firat Ram Aged About 39, Years Panch, Gram Panchayat Durpa Ward No. 8, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
4. Redheshyam Kewat S/o Bhundul Ram Aged About 52 Years Panch, Gram Panchayat Durpa Ward No. 2, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
5. Ramayan Shrivas S/o Hemlal Aged About 30 Years Panch, Gram Panchayat Durpa Ward No. 15, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
6. Additional Commissioner, Bilaspur Division, Civil and Revenue District : Bilaspur, Chhattisgarh
7. Collector, Janjgir, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
8. Sub Divisional Officer (Revenue) Janjgir, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
9. Netram S/o Ranjan Aged About 46 Years Panch, Gram Panchayat Durpa Ward No. 1, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
10. Hemlata W/o Styanarayan Aged About 34 Years Panch, Gram Panchayat Durpa Ward No. 4, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
11. Radhika W/o Raju Aged About 35 Years Panch, Gram Panchayat Durpa Ward No. 6, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
12. Kuntibai W/o Goverdhan Aged About 40 Years Panch, Gram Panchayat Durpa Ward No. 7, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
13. Firtin Bai W/o Chhotelal Aged About 36 Years Panch, Gram Panchayat Durpa Ward No. 9, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh

14. Jageshwari W/o Ganpat Aged About 38 Years Panch, Gram Panchayat Durpa Ward No. 10, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
15. Jaimati W/o Omprakash Aged About 37 Years Panch, Gram Panchayat Durpa Ward No. 11, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
16. Teras Bai W/o Santosh Aged About 40 Years Panch, Gram Panchayat Durpa Ward No. 12, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
17. Gangaram S/o Dayaram Aged About 52 Years Panch, Gram Panchayat Durpa Ward No. 13, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
18. Kameshwar S/o Kanhai Aged About 32 Years Panch, Gram Panchayat Durpa Ward No. 14, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
19. Nanki Noni S/o Nanku Aged About 52 Years Panch, Gram Panchayat Durpa Ward No. 16, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh
20. Angan Bai W/o Mahesh Aged About 30 Years Panch , Gram Panchayat Durpa Ward No. 17, Post Tusma, Tehsil Nawagarh, Civil And Revenue District : Janjgir-Champa, Chhattisgarh

---- Respondents

For Appellant	:	Shri N. Naha Roy and Shri Ramesh Nayak, Advocates.
For Respondent No.1	:	Shri Rakesh Pandey, Advocate.
For Respondents / State	:	Shri R.S. Baghel, Deputy Advocate General.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

18.07.2019

1. Grievance is against the judgment passed by the learned Single Judge whereby the writ petition filed by the private Respondent herein challenging the correctness and sustainability of the order granting interim stay by the Revisional Authority, during the pendency of the writ petition was considered and allowed placing reliance on the verdict passed by this Court in the matter of **Chetan Kurre & Others vs. State of Chhattisgarh & Others reported in 2017 (3) C.G.L.J. 48.**

2. The sum and substance of the factual matrix is that a no confidence motion was successfully moved on 19.01.2019 against the Appellant who was the 'Sarpanch' and the challenge was finalized by the Sub Divisional Officer (Revenue), Janjgir, declining interference; which was subjected to challenge by filing an appeal before the Collector, who affirmed the order passed by the Sub Divisional Officer. This was further sought to be challenged by the Appellant by filing a revision petition before the Commissioner for Land Revenue, in terms of the relevant rules and an interim order of stay was granted on 30.05.2019. It was the correctness of the said 'interim order' that was subjected to challenge in the writ petition filed by the private Respondent herein which came to be considered and allowed by the learned Single Judge, and hence the appeal.

3. The learned counsel for the Appellant submits that the dictum relied on in the verdict under challenge stands on a different footing.

4. The learned counsel representing the State submits that the dictum remains the same, insofar as the question considered was whether the authority concerned was having the power to grant any interim order of stay, when a no confidence motion was passed. Specific reference is made to the mandate of Section 21 (1) of the Chhattisgarh Panchayat Raj Adhiniyam 1993, which clearly states that the on the events mentioned therein, the person concerned shall not hold the office any further.

5. The learned counsel for the Appellant submits that specific power is conferred upon the appeal/revisional authority under Rule 8 of the Chhattisgarh Panchayat (Appeal & Revision) Rules 1995 to grant interim order of stay in the matter of appeal / revision, as the case may be. When the provision in the 'Act' is crystal clear, as to the further course of action, stating that the person concerned shall not hold the office, whether it can be stayed by invoking the power under Rules 8 of the Chhattisgarh Panchayat (Appeal & Revision) Rules

1995 may still remain to be a matter for further consideration, if it is not already covered by the judgment in question.

6. Since it is submitted before this Court that the revision petition, stands listed for further consideration on 16.08.2019, we find it appropriate to direct the revisional authority to pass final order in the revision petition after hearing both the sides, in relation to the subject matter involved immediately, giving effect to the verdict passed by the learned Single Judge. All issues are left open.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Brijmohan