

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 3665 of 2019**

Arvind Mishra S/o Shri Satyanand Mishra Aged About 40 Years R/o Village Mohka, Post Singhanpur, Police Station And Tahsil Basna, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Sub Divisional Officer / Prescribed Officer Saraipali, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
3. Collector Mahasamund, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Raghvendra Pradhan, Advocate
For State	:	Mr. Anshuman Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/10/2019**

1. The substantive relief sought for by the petitioner in the present writ petition is :

10.1] That, this Hon'ble Court may kindly be pleased to direct the respondents authorities practically the respondent No.2 to decide the representation dated 18.09.019 and further direction may kindly be issued to the respondent No.2 to pass an order of giving the charge of Up-sarpanch of Gram Panchayat Mohka, Block Basna, Tahsil Basna, District Mahasamund, Chhattisgarh

2. The facts in nutshell is that the petitioner is an elected Up-sarpanch of Gram Panchayat Mahka, Block Basna, Tahsil Basna, District Mahasamund. The petitioner was placed under suspension under Section 39(1) by the Sub-Divisional Officer (Revenue) vide its order dated 18.06.2019.
3. Admittedly the petitioner has not challenged his suspension order in an appeal before the Appellate Authority. The counsel for the

petitioner candidly makes a submission that he does not intend to question the authority competent of the authority who has placed him under suspension or the reason for which the petitioner has been placed under suspension.

4. The limited grievance that the petitioner in the instant case is that there is a clear non-compliance of the provisions of Sub-section (2) of Section 39 on the part of the Sub-Divisional Officer and thereby the State Government could not take a decision confirming the order of suspension passed by the Sub-Divisional Officer. The contention of the petitioner is that in the event if there is a failure so far as the compliance of Sub-section (2) of Section 39 is concerned, the respondents No.2 & 3 by this time after a period of more than 3 months are supposed to take the remedial measures of handing over the charge of Up-sarpanch back to the petitioner as is envisaged in the said provision. The further request of the petitioner is that he has already made a representation in this regard vide Annexure P/3 to the respondent No.2, which may be decided at the earliest.
5. The request of the petitioner for the respondent No.2 to decide the representation is not opposed by the State counsel. However, the State counsel has raised an objection that the petitioner himself has not preferred an appeal to the Collector in this regard ventilating his grievance.
6. Considering the fact that the petitioner has not challenged the suspension order, but only wants the authority to take appropriate steps in the light of the provisions of Section 39(2), where since the

order of suspension has not been confirmed by the State Government for a period of 90 days, the suspension order of the petitioner ought to have been revoked and the charge of Up-sarpanch ought to have been handed over back to the petitioner.

7. Given the limited request that the petitioner has, let the respondent No.2 take an appropriate decision on the representation made by the petitioner Annexure P/3 keeping in view the provisions of Section 39(2) and also consider as to what would be the consequence on the respondent No.2 not intimating the State Government or reporting the placement of the petitioner under suspension to the State Government within the period stipulated under Section 39(2).
8. Let an appropriate decision be taken at the earliest preferably within a period of 30 days from the date of receipt of the copy of this order.
9. It shall be the responsibility of the petitioner to apprise the respondents No.2 & 3, so far as the order passed by this Court is concerned.
10. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge