

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 3640 of 2019

Sanjay Kumar Sahu S/o Bharat Lal Sahu Aged About 45 Years Sarpanch
Gram Panchayat Bodsara, R/o Village Bodsara, Tahsil Janjgir, District
Janjgir Champa Chhattisgarh.

---- Petitioner(s)

Versus

- 1.** State of Chhattisgarh Through The Secretary, Panchayat and Rural Development, Department, Mahanadi Bhavan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
- 2.** Additional Commissioner Bilaspur Division Bilaspur, District Bilaspur Chhattisgarh.
- 3.** Collector Janjgir, District Janjgir Champa Chhattisgarh.
- 4.** Vijay Kumar Sahu S/o Shyam Lal Sahu Aged About 55 Years R/o Village Bodsara, Tahsil Janjgir, District Janjgir Champa Chhattisgarh.
- 5.** The Gram Panchayat Bodsara Through Its Secretary, Gram Panchayat Bodsara, Tahsil Janjgir, District Janjgir Champa Chhattisgarh.

---Respondents

For Petitioner	:	Shri Pushpendra Kumar Patel, Advocate.
For State	:	Shri P. Acharya, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15.10.2019

- 1.** Challenge in the present writ petition is to the order passed by the respondent No.1 dated 28.05.2019 in a revision petition filed under the provisions of Chhattisgarh Panchayat Raj Adhiniyam, 1993 (in short, the Adhiniyam, 1993).
- 2.** Brief facts of the case is that, the petitioner is an elected Sarpanch of Gram Panchayat, Bodsara, Tehsil Janjgir, District Janjgir Champa. The respondent No.4 is said to have lodged a complaint before the District Collector i.e. respondent No.3 under Section 36 (q) of the Adhiniyam, 1993. The complaint lodged against the petitioner is that he is an encroacher of the government land. The said complaint got registered before the Collector and the Collector vide his order dated 22.08.2016 ordered for recording of evidence in respect of the complaint made by the respondent No.4 and fixed the matter for evidence of respondent No.4.

This order dated 22.08.2016 was subjected to challenge by the petitioner before the Additional Commissioner under Section 91 of the Adhiniyam, 1993. The Additional Commissioner allowed the revision of the petitioner vide order dated 21.04.2017 holding that the complaint lodged by the respondent No.4 was baseless and without any substantial material and therefore rejected the complaint and also quashed the proceedings initiated by the Collector. This order of the Additional Commissioner dated 21.04.2017 was subsequently put to challenge before the respondent No.1 in a revision preferred by the respondent No.4. The revisional authority now vide the impugned order dated 28.05.2019 has allowed the revision petition and have quashed the order of Additional Commissioner and have remitted back the matter for adjudication on its merit before the Collector restoring the proceedings which were initiated by the Collector. It is this order which is under challenge by the petitioner in the present writ petition.

- 3.** The contention of the petitioner is that, the respondent No.4 has made a false and fabricated case against the petitioner in order to oust him from the post of Sarpanch of the village. He further submits that the complaint of the respondent No.4 has already been found to be false and baseless by the Additional Commissioner as is evident from the order dated 21.04.2017 and therefore there was no occasion for the respondent No.1 to have firstly entertained the revision of the respondent No.4 and secondly for remitting the matter back to the Collector for examination of the complaint lodged by the respondent No.4. Further contention of the petitioner is that, the admitted facts of the case itself is that there is no order of the petitioner being encroacher or the petitioner having been declared encroacher by any of the civil authorities and unless the petitioner is declared as an encroacher, the proceedings drawn by the

Collector is not maintainable or sustainable, so also the findings of the respondent No.1 while allowing the revision of the respondent No.4 is uncalled for.

4. This court does not find any strong case made out by the petitioner calling for an interference with the impugned order dated 28.05.2019. If the contents of the order dated 28.05.2019 is perused, it clearly reflects that the respondent No.1 has only held that since there was no final order passed by the Collector on 22.08.2016 and all that the Collector has held was only to decide the complaint after recording of the evidence of the parties, therefore, the decision of the Additional Commissioner dated 21.04.2017 to be bad in law.
5. This court is of the view that the findings of the respondent No.1 seems to be fair, reasonable and justified. If the Collector i.e. respondent No.3 has received a complaint of the petitioner being encroacher and the Collector having entertained the complaint and have ordered for examination of the complaint by asking the complainant to lead evidence which is a sort of enquiry to decide whether the petitioner has infact encroached upon the government land or not, cannot be said to be, in any manner, prejudicial to the interest of the petitioner. In case if the petitioner is not an encroacher, the respondent No.4 may find it difficult to lead evidence and if there is no cogent and strong evidence led by the respondent No.4, the petitioner would not get adversely affected in any manner.
6. Under the circumstances, this court does not find any strong case made out by the petitioner. The petition fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge