

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 3662 of 2019**

Kamalnarayan Rajput S/o Shri Taran Singh Rajput Aged About 60 Years
R/o Village Parpoda, Post Office Mohbatta, Police Station Devkar Tehsil
Berla, District Bemetara Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat and Rural Development, Mahanadi Bhawan, Atal Nagar, Naya Raipur, Chhattisgarh
2. Commissioner Durg, Division, Durg Chhattisgarh.
3. Collector, District Bemetara Chhattisgarh
4. The Sub Divisional Officer Bemetara, District Bemetara Chhattisgarh
5. Chief Executive Officer Janpad Panchayat, Berla, District Bemetara Chhattisgarh
6. Radheshyam Singh Rajput Sarpanch Gram Panchayat, Parpoda, R/o Village Parpoda, Tehsil Berla, District Bemetara Chhattisgarh

---- **Respondents**

For Petitioner	:	Ms. Sharmila Singhai, Advocate
For State	:	Mr. P. Acharya, PL

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

16/10/2019

1. The challenge in the present writ petition is to the Annexure P-1 dated 29.08.2019 whereby respondent No.2 Commissioner Durg Division has granted interim stay in favour of the respondent No.6 against the order passed by the Collector dated 26.08.2019 and also the order passed by the Sub Divisional Officer, Berla dated 13.08.2019.
2. Facts of the case are that respondent No.6 is an elected Sarpanch and respondent No.4 issued a show cause notice to the respondent No.6 alleging certain irregularities and misconduct. The Sub Divisional Officer finally vide order Annexure P-3 found respondent No.6 to be guilty of having committed the irregularities or misconduct and passed order of

removal from the post of Sarpanch. The said order was challenged before the Collector in an appeal and appeal is pending consideration. However, Collector rejected the application for grant of stay.

3. Rejection of the application of stay by the Collector was challenged by way of revision before the Divisional Commissioner, respondent No.2 by the respondent No.6 and where the impugned order has been passed on 29.08.2019 staying the effect and operation of the order passed by the Collector as well as by the Sub Divisional Officer.
4. At the outset, this Court is not inclined to entertain the writ petition for the reason that powers exercised by the respondent No. 2 is one which is under his discretionary jurisdiction. The scope of interference in exercise of a discretionary jurisdiction is too limited. The other reason for not entertaining the writ petition is the fact that the order itself has now been in operation for a period of almost two months. What further has to be seen is that respondent No.2 Commissioner has called upon the disputing parties to submit their reply and for hearing of revision finally on merits.
5. Given the fact the appeal has to decide finally on merits after disputing parties complete pleadings, this Court does not find any strong case made out at this juncture to interfere with the order under challenge in the present writ petition. The writ petition accordingly stands disposed of directing respondent No.2 to ensure that since the revision itself is against the order passed in interim application decided by the Collector, the revision be decided at the earliest preferably within a period of 45 days from the date all the pleadings are complete.
6. With the aforesaid observation, this writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge