

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 4183 of 2019

Neeraj Machhuva Sahkari Samiti Maryadit, Puta Through Its President Padmesh Chakradhari S/o Late Laxman Prasad Chakradhari, Aged About 50 Years, R/o Village Puta, Tahsil Patna, District Korea, Chhattisgarh.

--- Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary Department of Agriculture And Fisheries, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh.
2. The Secretary Department Of Panchayat And Rural Development, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh.
3. The Collector Korea, District Korea, Chhattisgarh.
4. The Assistant Director Fisheries, Department, District Korea, Chhattisgarh.
5. The Chief Executive Officer Janpad Panchayat Baikunthpur, District Korea, Chhattisgarh.
6. Machhuvara Samiti, Puta Through Its President, Ramjanam Singh R/o Village Puta, Tahsil Patna, District Korea, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Keshav Prasad Gupta, Advocate
For State	:	Shri Jitendra Pali, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21.11.2019

1. Challenge in the present writ petition is to the resolution passed by the Janpad Panchayat, Baikunthpur, Korea, dated 28.08.2019 (Annexure P/1) whereby the respondent authorities have granted lease of village Puta Dam for the purpose of grant of right of fishing to the respondent No.6.
2. The petitioner have been debarred from participating in the said proceeding only on the ground that one of the member of the petitioner society is an elected member of Janpad Panchayat, Baikunthpur namely Smt. Rekha Singh.
3. Under the guidelines applicable for grant of right of fishing or grant of lease, there is no such condition which provides for debarring a society under such circumstances. However, perusal of record would show that the said elected member of Janpad Panchayat Baikunthpur namely Smt.

Rekha Singh has already resigned from the membership of the present society and the said resignation has already been accepted and is no longer member of the said society which could be disqualified, if at all, if any. Moreover, from the perusal of record it appears that the petitioner has already made a representation in this regard to the respondent No.3- Collector under Chhattisgarh Panchayat Raj Adhiniyam, 1993. The resolution passed by the Janpad Panchayat could be assailed by way of an appeal to the Collector under Chhattisgarh Panchayat Raj (Appeal and Revision) Rules, 1995.

4. Given the said facts and the statutory remedy of appeal being available to the petitioner, let the petitioner prefer a duly constituted appeal to the Respondent No.3- Collector, Korea, against the resolution dated 28.08.2019. Subject to petitioner's preferring appeal, the same shall be decided at the earliest preferably within a period of 45 days from the date of filing of appeal. Meanwhile, till the appeal of the petitioner is decided by the Collector, Korea, it is directed that the respondents including the respondent No.5 are restrained from granting any lease or granting any right of fishing to respondent No.6 or any other persons. The petitioner should file their appeal positively within a period of 10 days from the date of receipt of copy of this order.
5. The appeal of the petitioner, so filed, should be entertained and considered ignoring the aspect of limitation, if any.
6. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge