

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 4676 of 2019**

Barsati Lal Verma S/o Chandulal Verma Aged About 52 Years Sarpanch
Gram Panchayat Madmada, R/o Village Madmada, Tahsil Bodla, District
Kabirdham, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Panchayat And Social Welfare
Department, Mahanadi Bhawan Mantralaya, New Raipur Chhattisgarh
2. Collector Kabirdham, District Kabirdham Chhattisgarh
3. Sub Divisional Officer (Revenue) Bodla, District Kabirhdam Chhattisgarh
4. Chief Executive Officer Janpad Panchayat Bodla, District Kabirdham
Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ashutosh Mishra, Advocate
For State	:	Mr. Anshuman Shrivastava, PL

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/12/2019**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 27.11.2019 whereby the authorities concerned i.e. respondent No.4 has passed an order for asking the charge from the petitioner from the post of Sarpanch, Gram Panchayat Marmada.
2. Facts of the case is that the petitioner was an elected Sarpanch of the Gram Panchayat Marmada and he was issued with an order under Section 40 of the Panchayat Raj Adhiniyam passed by the Sub Divisional Officer on 04.09.2019. The petitioner thereafter preferred a writ petition i.e. WPC 3514/2019. This High Court vide its order dated 30.09.2019 had disposed of the writ petition with a direction to the petitioner to approach the appellate authority and in turn the appellate authority was directed to decide the appeal on merits. Meanwhile, High Court had also stayed the

effect and operation of the order dated 04.09.2019 for a period of three weeks'. Subsequently, now on the expiry of the period of three weeks, charge from the petitioner have been ordered to be taken back.

3. The contention of the petitioner is that the three weeks' interim protection was which the petitioner had in his favour with an intention that the appellate authority shall consider and decide the appeal itself at the earliest or at least shall consider and decide the application for an interim protection if any. However, without deciding either of the two, the respondent No.4 has now passed an order for handing over the charge to the petitioner. Considering the fact that High Court had disposed of the writ petition with a direction to the respondent to decide the appeal and had stayed the effect and operation of the order dated 04.09.2019 for a period of three weeks, it clearly gives an indication that during the said period it was expected that the appellate authority shall decide the appeal or at least consider the application for interim protection, if any. In the absence of which the action on the part of the respondent No.4 would amount it to be arbitrary and a malafide action.
4. Be that as it may, without entering into the merits of the case once admittedly the appeal has been directed to be preferred by the petitioner by this Court and there was also an interim protection issued in his favour, it was expected that the appellate authority to take a decision at the earliest. Respondent No.4 in turn was expected to ask the petitioner for getting an extension of the interim order or else the department would have the liberty of taking appropriate consequential steps.
5. Given the said facts, this Court is of the opinion that at this stage, ends of justice, would meet if the writ petition is disposed of with a direction to the respondent No.2 to consider and decide the appeal of the petitioner at the earliest.

6. Keeping in view the interim protection granted by this Court in WPC No.3514/2019 dated 30.09.2019, this Court is of the opinion that ends of justice would meet if the impugned order Annexure P-1 dated 27.11.2019 is ordered to be kept in abeyance till the finalization of the appeal before the respondent No.2.
7. It shall be the responsibility of the petitioner to apprise respondent No.2 and 4 in respect of the order passed by this Court.
8. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit