

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 710 of 2012

- Chief Executive Officer Zila Panchayat, North Bastar Kanker (C.G.), Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Department of Panchayat and Rural Development, D.K.S. Bhawan, Mantralaya. Raipur (C.G.), Chhattisgarh
2. Commissioner, Bastar Division, Jagdalpur (C.G.), District : Bastar(Jagdalpur), Chhattisgarh
3. Manoj Kumar Durgasi, S/o Bisram Durgasi, Aged About 40 Years, Village Nawapara (Bargari), Post/Tahsil - Charama, Distt. Kanker (C.G.), District : Kanker, Chhattisgarh

---- Respondents

For Petitioner – Mr. Ajay Kumrani, Advocate on behalf of Ms. Naushina Ali, Advocate.

For State/Respondents 1 and 2 – Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

19-11-2020

Heard.

1. This petition has been brought challenging the order dated 29-02-2012 passed by the Court of Secretary, Chhattisgarh Govt., Panchayat and Gramin Vikas Vibhag, Mantralaya, Raipur in case No.321/न्याया. पंचा./ 2011-12 dismissing the revision petition filed by the petitioner.

2. It is submitted that respondent No.3 who was appointed and working as Shiksha Karmi Grade-II was terminated from service, by order dated 23-05-2008 which was passed by the petitioner in compliance with the order passed in WP No.7339/2007 between parties Smt. Rekha Sinha and 61 others. The order of termination was challenged by respondent No.3 by filing appeal before the Additional Commissioner, Bastar Division at Jagdalpur, which was decided by the order dated 27-07-2010 in case No.93/B-121/2008-2009. The appeal

was allowed by the Additional Commissioner and the termination order of Respondent No.3 was set aside. The petitioner then moved to the State Govt. by filing revision petition, which is provided under the provisions of C.G. Panchayati Raj Adhiniyam, 1992 and Rule 3 and 5 of C.G. Panchayat (Appeal and Revision) Rules, 1995. The Secretary has dismissed the revision petition holding that the order of termination could have been challenged only once by filing revision petition, for the reason that the appeal was filed and decided by the appropriate authority, therefore, the revision petition was not maintainable and the revision was dismissed.

3. It is submitted by learned counsel for the petitioner that provisions under the C.G. Panchayati Raj Adhiniyam and C.G. Panchayat (Appeal and Revision) Rules, 1995 do not provide for filing of any appeal, therefore, the appeal preferred against the termination order was itself unauthorized, illegal, hence, the order passed in that appeal is not an order in the eyes of law. Hence, the revision petition was maintainable and the revisional authority should have decided the revision petition on merits. The dismissal of the revision petition on technical ground is erroneous and uncalled for, which is unsustainable.

4. Learned counsel for the State/respondents 1 and 2 opposes the submission and the petition filed and it is submitted that no error has been committed by learned revisional authority in dismissing the revision petition. Therefore, this petition may also be dismissed.

5. Considered on the submissions and perused the documents present in the record of the petition and also other facts and circumstances present. As it is clear from the provisions of the C.G. Panchayati Raj Adhiniyam and C.G. Panchayat (Appeal and Revision) Rules, 1995 provide for filing revision, therefore such revision petition has to be decided in accordance with law.

As the law itself places no bar in preferring revision before the revisional

authority, therefore, the revision should have been decided on merits instead of dismissing it on the ground of lack of jurisdiction. Hence, in view of the above, the impugned order dated 29-02-2012 is quashed and the matter is remitted back to the Secretary to the Government of Chhattisgarh, Department of Panchayat & Rural Development with a direction to consider and decide the revision application preferred by the petitioner herein and pass appropriate order in accordance with law and on its own merits.

6. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge