

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3407 of 2020

- Brijesh Gupta Son Of Basant Lal Gupta Aged About 26 Years R/o Village Sanna, Police Station Sanna, Vikaskhand Bagicha, District Jashpur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare, Mahanadi Bhawan, Mantralaya, Atal Nagar Nawa Raipur, District Raipur Chhattisgarh
2. Collector Jashpur, District Jashpur Chhattisgarh.
3. Chief Executive Officer Janpad Panchayat Bagicha, District Jashpur Chhattisgarh
4. Deputy Director Panchayat, District Jashpur Chhattisgarh.
5. Pradeep Gupta Secretary, Gram Panchayat Sanna, District Jashpur Chhattisgarh.

---- Respondents

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|----------------|---|------------------------------------|
| For Petitioner | : | Mr. Sumit Singh Rathore, Advocate. |
| For State      | : | Ms. Akansha Jain, Dy. G.A.         |

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Hon'ble Shri Justice Goutam Bhaduri

Order

27.08.2020

1. Heard
2. Learned counsel for the petitioner submits that the petitioner is Up- Sarpanch of Gram Panchayat Sanna, Janpad Panchayat Bagicha, District-Jashpur. He submits that the respondent No. 5 namely Pradeep Gupta has been posted in the same Gram Panchayat by an order of transfer by the respondent No. 3 dated 13.08.2020 (Annexure P/1). He also submits that the respondent No. 5 has suffered a conviction pursuant to a report made by the petitioner which would be evident from Annexure P/2 passed by the Court of Session Judge. It is contended in

the appeal against the conviction was upheld under Section 323 read with Section 34 of Indian Penal Code (henceforth 'IPC'). It is further submitted that in such case when a person has been convicted on a complaint by same office bearer of Gram Panchayat when he is placed on the same Gram Panchayat, then it would adversely affect the working of the Gram Panchayat as there would always be a prejudice against the petitioner. It is stated that the Respondent No. 5 (newly appointed Secretary) would always have animosity against the petitioner who is Up-Sarpanch in same Gram Panchayat. It is also contended that the petitioner has made a representation before the Respondent No. 3, who has the power to transfer the respondent No. 5 to other place, and that representation may be considered.

3. Perused the documents. Perusal of the judgment dated 11.12.2017 (Annexure P/2) shows that the respondent No. 5 stands convicted by the appellate Court under Section 323 read with Section 34 of the IPC in which one month imprisonment with the fine of Rs. 1000/- and in absence of payment of fine further one month rigorous imprisonment was ordered. *Prima facie* it appears that from the report of the petitioner on a criminal case the conviction was ordered. Now the Respondent No. 5, who suffered the conviction on the basis of FIR of the petitioner at the same place where the petitioner is working as Up-Sarpanch. Therefore the submission of the petitioner that the working of the Gram Panchayat would severely be affected as the hostile attitude would always prevail between the petitioner and the respondent No. 5, cannot be ruled out.

4. Under these circumstances, since the petitioner has made an

application before the Respondent No. 3, the Respondent No. 3 is directed to decide the representation of the petitioner, considering the background that on the basis of the FIR made by the petitioner the respondent No. 5 was convicted and placing the same person at the same Gram Panchayat may affect the working there by villagers may eventually suffer. The order shall be passed within a period of 45 days from the date of receipt of copy of this order.

5. With the aforesaid observation/ direction, the writ petition stands disposed off.

Sd/-

**(Goutam Bhaduri)**

**JUDGE**

Vishakha