

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1962 of 2021**

- Chandrapal Yadav S/o Late Shri Mohitram Ram Yadav, Aged About 48 Years Up-Sarpanch Of Gram Panchayat Pawani, R/o Ward No. 10 Near Bus Stand Pawani, Thana And Tahsil- Bilaigarh, Civil And Revenue District- Balodabajar-Bhatapara, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- Secretary, Panchayat Department Mahanadi Bhawan, Capital Complex, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh
2. Collector, Balodabajar-District- Balodabajar-Bhatapara, Chhattisgarh
3. Shri Tekram Maheshwari, Sub Divisional Officer, Revenue Bilaigarh, District- Balodabajar-Bhatapara, Chhattisgarh
4. Mahendra Shrivastava, Sarpanch Of Gram Panchayat Pawani, R/o Village- Pawani, Thana And Tahsil- Bilaigarh, Civil And Revenue District- Balodabajar-Bhatapara, Chhattisgarh

---- Respondents

For Petitioner : Shri Sunil Sahu, Advocate

For Respondents/State : Ms. Sunita Jain, GA

Hon'ble Shri Justice Goutam Bhaduri**Order****06/04/2021**

1. Heard.
2. Learned counsel for the petitioner would submit that the petitioner being the complainant for suspension of respondent No.4, who is the Sarpanch and the suspension order was issued by the SDO on 13.01.2021 but as per the Section

39 (2) of the C.G. Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam, 1993'), the order of suspension is required to be sent to the State Government and the State Government may pass the appropriate order, however, the said order of suspension has not been sent to the State Government, therefore, the SDO may be directed to send the order of suspension to the State Government.

3. The mandate of Section 39 (2) of the Adhiniyam, 1993 is that the order of suspension shall be reported to the State Government. It is not clear before this Court whether such suspension order was sent to the State Government or not? Therefore, in view of such ambiguous situation, this Court will not take over the jurisdiction of the authority which is vested under Section 39 (2) of the Adhiniyam, 1993 and would step into the shoes of the officer to discharge such administrative job. The petitioner was required to place on record whether such suspension order has been reported to the State Government or not? The very issue which is being ambiguous, no judicial order can be passed on the basis of ambiguous and shady situation. Any order passed by this Court would be on presumption without the actual facts are placed before this Court.
4. Accordingly, the petition sans merit is liable to be and is hereby dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu