

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2246 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 And Rural Department Mahanadi Bhawan, Capital Complex , Mantralaya , Naya Raipur , District Raipur Chhattisgarh.
2. Sub Divisional Officer (Revenue) Bilaigarh 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 State	:	Shri Sudeep Agrawal, Dy.A.G.
For respondent No.3:		Shri Shashank Thakur, Advocate.
For respondent No.4:		Shri Samir Singh, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

20/09/2021

Heard.

1. Challenge in this petition is the revocation of suspension order dated 18/05/2021 on the ground that the suspension which was effected under Section 39 of the C.G. Panchayat Raj Adhiniyam, 1993 (hereinafter referred to as the 'Act of 1993') was not affirmed under Section 39 (2) of the Act of 1993.
2. Section 39(2) of the Act of 1993 mandates that the order of suspension made under sub-section (1) shall be reported to the State Government within a period of 10 days and shall be subject to such orders as the State Government may deem fit to pass. It further contemplates that if the order of

suspension is not confirmed by the State Government within 90 days from the date of receipt of such report it shall be deemed to have vacated. In the instant case, since the suspension order dated 13/01/2021 along with the original document was not sent to the State Government within a period of 10 days, the suspension order was vacated by the impugned order dated 18/05/2021 by the Collector.

3. The State counsel was directed to call for the original record of the case. After verification of the record the State counsel would submit that the original record containing page number 469, i.e. the order of the Collector dated 4/03/2021 record that since there was non-compliance by the SDO for not sending the original record alongwith the suspension order as per mandate of section 39 (2), the suspension order was revoked. Meaning thereby the SDO has failed to perform the duty caste on him under section 39(2) of the Act of 1993. The non-compliance of this nature by the SDO in a certain cases of like nature is to be viewed by the State Government on the administrative side as to what would be effect of non-compliance of statutory mandate and in a given case an authority may travel on the same boat along with the person suspended even for serious charges which needs to be avoided. The State Government would be in its discretion to draw any disciplinary action against the SDO/respondent No.3 if deems fit.
4. Taking into facts of this case, since the original application under Section 40 of the Act of 1993 is still pending before the SDO, the SDO is directed to decide the same within a period of 60 days from the date of receipt of this order.
5. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

Judge