

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3875 of 2021

- Gajendra Manjhi S/o Shri Har Ram Manjhi Aged About 33 Years R/o House No. 81, Ward No. 04, Village Mungiya, Block Deobhog, Tehsil And Police Station Deobhog, District Gariyaband, Chhattisgarh, Presently Working As Sarpanch, Gram Panchayat Mungiya, Tehsil And Police Station Deobhog, District Gariyaband, Chhattisgarh

---- Petitioner

Versus

1. State Of C.G. Through Its Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh,
2. Commissioner/ Additional Commissioner, Raipur Division, Raipur, Chhattisgarh,
3. Collector, Gariyaband, District Gariyaband, Chhattisgarh
4. Sub Divisional Officer (Revenue), Deobhog, District Gariyaband, Chhattisgarh
5. Chief Executive Officer, Janpad Panchayat Deobhog, District Gariyaband, Chhattisgarh
6. Duryodhan S/o Shri Abhiram, Working As Panch, Gram Panchayat Mungiya, R/o Village Mungiya, Block Deobhog, Tehsil And Police Station Deobhog, District Gariyaband, Chhattisgarh
7. Arvind S/o Shri Dashmu, Working As Panch, Gram Panchayat Mungiya, R/o Village Mungiya, Block Deobhog, Tehsil And Police Station Deobhog, District Gariyaband, Chhattisgarh, District : Gariyabandh, Chhattisgarh
8. Hazari Singh S/o Shri Mangal Singh Verma, Working As Panch, Gram Panchayat Mungiya, R/o Village Mungiya, Block Deobhog, Tehsil And Police Station Deobhog, District Gariyaband, Chhattisgarh,
9. Maruwabai W/o Shri Devanand, Working As Panch, Gram Panchayat Mungiya, R/o Village Mungiya, Block Deobhog, Tehsil And Police Station Deobhog, District Gariyaband, Chhattisgarh

---- Respondents

For petitioner	:	Mr. Pawan Shrivastava, Advocate
For State	:	Mr. R.K. Bhagat, Dy. G.A.
For Respondents No. 6 to 9	:	Mr. A.S. Rajput, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

28.09.2021

1. Heard

2. The challenge in this writ petition is to the order dated 13.09.2021 passed by the Commissioner vide Annexure P/1.

3. Learned counsel for the petitioner would submit that a proceeding under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam 1993 (for short 'Adhiniyam 1993') was drawn against the petitioner wherein the SDO by its order dated 31.03.2021 (Annexure P/6) has removed the petitioner from the post of Sarpanch. The said order was subject of challenge before the Collector under Chhattisgarh Panchayat (Appeal and Revision) Rules 1995. The Collector, admitted the appeal and by its interim order dated 12.07.2021 (Annexure P/9), has stayed the order of the SDO which was passed under Section 40 of the Adhiniyam 1993. It is submitted that thereafter the said order was challenged by the respondents No. 6 to 9 by way of a Revision before the Commissioner and the Commissioner has set-aside the order of the Collector despite the fact that the appeal is pending before the Collector. It is further stated that the respondents No. 6 to 9 were not made a party in any proceeding and the application which was filed before the Collector to implead them as a party was rejected. Therefore, the Revision directly could not have been entertained by the Commissioner at the behest of respondents No. 6 to 9 and such order may not have been passed.

4. Learned counsel for the respondents No. 6 to 9 would submit that the appeal is already pending before the Collector and that may be directed to be decided within a time bound manner.

5. Having considered the submission of the parties.

6. The petitioner was removed by the order of the SDO under Section 40 of the Adhiniyam 1993 which was subject of challenge before the Collector. The Collector admitted the appeal and granted interim stay on the operation of the order of the SDO, which was for the removal of the petitioner. The said order was subject of challenge by way of a Revision by the respondents No. 6 to 9 before the Commissioner and thereafter the impugned order has been passed vide Annexure

P/1. It is observed that the appeal is still pending before the Collector, then it will require adjudication on its merit. In case, the appeal is decided in favour of the petitioner, then vacating the interim protection during the pendency of the appeal would lead to almost adjudication of the case finally as the appeal itself would lose its efficacy partly. Under these circumstances, it is directed that the Collector, before whom the appeal is pending for hearing, may decide the same as expeditiously as possible. The order of the Commissioner, as it appears, has traveled beyond the facts and the jurisdiction as the interim stay granted in favour of the petitioner from his removal as a Sarpanch, if is vacated then it will lead to further multiplicity of the proceeding especially at the behest of respondents No. 6 to 9 when their impleadment was rejected. In the backdrop of the fact that the appeal is pending before the Collector, the order of the Commissioner is hereby quashed. It is further observed that this order will not come in the way in adjudication of the appeal on merits as no observation has been made by this Court on merits.

7. With the aforesaid direction, the writ petition stands disposed off.

Sd/-

(Goutam Bhaduri)

JUDGE