

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4342 of 2021

- Nilkanth Biswas S/o Mritunjay Biswas, Aged About 32 Years, Village Vishnupur, Block Koilibeda, District North Bastar Kanker Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through the Secretary, Panchayat and Rural Development Department of Revenue and Disaster Management, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. Collector, District North Bastar Kanker Chhattisgarh.
3. Sub Divisional Officer (Revenue), Pakhanjur, District North Bastar Kanker Chhattisgarh.
4. Chief Executive Officer Zila Panchayat North Bastar Kanker Chhattisgarh.

---- Respondents

For Petitioner – Shri Punit Ruparel, Advocate.

For State– Shri Rahul Jha, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-10-2021

Heard.

1. The present petition has been brought praying to quash the proceeding drawn by respondent No.4 under Section 40(1)(C) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (in short 'the Adhiniyam, 1993').
2. It is submitted by learned counsel for the petitioner that the petitioner is elected Sarpanch of Gram Panchayat Vishnupur, District North Bastar Kanker. The petitioner was issued notice by respondent No.4 dated 03-08-2021 making allegation of financial irregularities, directing him to show cause on that notice. Respondent No.3 has also issued show cause notice to the petitioner on the same ground vide Annexure-P/3 on 19-08-2021. The petitioner has replied to both the notices.
3. It is submitted that under the provisions of Section 40(1)(C) of the Adhiniyam, 1993, it is only the SDO which has the authority to proceed and

take action, whereas, the respondent No.4 has no authority, he has not been notified as the prescribed authority. Hence, the proceeding drawn by respondent No.4 may be dropped.

4. The State counsel opposes the submission. However, he concedes that respondent No.3 is the notified prescribed authority. Therefore, the proceeding drawn by respondent No.3 against the petitioner has to be continued.

5. After considering on the submissions, it is observed that there appears to be irregularity of the proceedings which has been drawn simultaneously by respondent No.3 and 4 against the petitioner on the same ground. As respondent No.4 is not prescribed authority as defined under Section 2(xxi) of the Adhiniyam, 1993, therefore, the proceeding initiated by him cannot be continued as per law. Hence, this petition is disposed off at motion stage. It is ordered that the proceeding drawn by respondent No.4 against the petitioner under Section 40(1)(C) of the Adhiniyam, 1993 is quashed. However, it is made clear that the proceeding by respondent No.3 against the petitioner under the same provision shall continue which shall be heard and decided in accordance with law.

6. The petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge