

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4315 of 2021

- Fattelal Verma S/o Shri Nutanlal Verma, Aged About 37 Years, Sarpanch at Village Panchayat Khopli, Tahsil, Block and District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department of Panchyat and Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Collector, Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh
3. The Sub Divisional Officer (Revenue) Durg, District - Durg Chhattisgarh., District : Durg, Chhattisgarh
4. The Chief Executive Officer, Janpad Panchayat Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh
5. Bhisham Sahu S/o Puna Ram Sahu, Aged About 33 Years, R/o Village Khopli, Tahsil and District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondents

For Petitioner – Shri A.S. Rajput, Advocate.

For State – Shri Rahul Jha, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-10-2021

Heard.

1. It is submitted by learned counsel for the petitioner that the petitioner was elected as Sarpanch on 30-01-2020 for Gram Panchayat Khopali, District Durg. On the basis of some false allegation respondent No.3 has invoked Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (in short 'the Adhiniyam, 1993') and by passing the order dated 14-09-2021, directed removal of the petitioner from the post of Sarpanch. The petitioner has preferred appeal before the Collector, i.e., respondent No.2, which is registered as Case No.17/2021 and pending. The application filed for grant of stay has been cursorily dismissed by respondent No.2 by order dated 04-10-2021 which is not a speaking order, as it is mentioned in this order that the petitioner will not

suffer any irreparable injury, that is not a correct statement. The petitioner is elected Sarpanch and as there is statutory remedy available to him for filing appeal, therefore, until decision on the appeal the petitioner's position is needed to be protected. Hence, the petition may be admitted and relief be granted to the petitioner.

2. The State counsel opposes the submission and submits that there is no error in the impugned order dated 04-10-2021 passed by respondent No.2. The petition may be disposed off with direction to respondent No.2.

3. Considered on the submissions. The petitioner has statutory remedy under Section 91 of the Adhiniyam, 1993 to file appeal against the order of removal from the post of Sarpanch, therefore, until decision on the appeal the position of the petitioner is required to be protected. Hence, I am of this view that the impugned order is not sustainable, which does not appear to be a speaking order. Therefore, the petition is disposed off at motion stage and the impugned order dated 04-10-2021 is set aside and it is ordered that the effect and operation of the order dated 14-09-2021 shall remain stayed until the date the appeal filed before respondent No.2 is heard and decided. Respondent No.2 is also directed to hear and decide the appeal filed by the petitioner as early as possible preferably within a period of 30 days.

4. The petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge