

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 5225 of 2021**

Smt. Neera Sahu W/o Ishwar Sahu Aged About 45 Years Sarpanch Gram Panchayat Banarshi, Janpad Panchayat And Tashil Arang, District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Collector Raipur, District Raipur Chhattisgarh.
3. Additional Collector District Raipur Chhattisgarh.
4. Sub Divisional Officer (Revenue) Arang, District Raipur Chhattisgarh.
5. Gram Panchayat Banarshi Through Its Secretary, Janpad Panchayat Arang, District Raipur Chhattisgarh.

---- Respondents

For Petitioner/s	:	Mr. A. V. Shridhar, Advocate
For State	:	Ms. Akansha Jain, Dy. GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15/12/2021**

1. Petitioner in the present writ petition is aggrieved by the two orders one of which is passed by the District Collector on 05.08.2021 rejecting his interim application and the second being the order passed by the Divisional Commissioner dated 22.11.2021 whereby the revision preferred by the petitioner against the order of the Collector dated 05.08.2021 has been rejected.

2. Brief facts of the case is that the petitioner was elected as Sarpanch, Gram Panchayat, Banarasi under the Janpad Panchayat, Aarang, District Raipur. That on the basis of complaints in respect of the certain alleged misconduct and irregularity committed by the petitioner proceedings under Section 40 was initiated against the petitioner. That vide order dated 19.07.2021, the petitioner was removed from the post of Sarpanch.
3. The order of the removal of the Sarpanch dated 19.07.2021 was subjected to challenge before the Appellate Authority vide appeal dated 24.07.2021. The appellate Authority i.e. the District Collector vide order dated 05.08.2021 rejected the interim application on the ground of there being no sufficient strong ground raised in the interim application. This order of rejection of the interim application was put to test by way of a revision before the Divisional Commissioner filed on 04.09.2021. The Divisional Commissioner also vide order dated 22.11.2021 rejected the revision on the ground that since the Appellate Authority has already seized of the matter and is proceeding further to decide the appeal itself on merits. The Present petition has been filed against these two orders and petitioner is claiming for the interim protection so far as order of the removal is concerned.
4. Having heard the contentions put forth on either side and on perusal of records, the admitted factual matrix as it stands today is that the order of removal has passed by the SDO under Section 40 on 19.07.2021. That almost five months by now has lapsed since the order of removal has been passed.
5. The Appellate Authority after rejecting the interim application on 05.08.2021 thereafter has issued notice and have called upon the parties to decide the appeal on its merits. Further perusal of the order of the

Divisional Commissioner also would show that Divisional Commissioner also did not interfere with the order of the Collector taking into consideration the fact that collector himself has proceeded to decide the appeal.

6. Given the aforesaid fact that order of removal has already come into force for a period of five months now. The fact that Appellate Authority as also the Revisional Authority did not find a strong case for grant of interim relief, this Court in exercise of Writ Jurisdiction at this juncture would also find it difficult to grant interim relief to the petitioner. Restoring of the order of removal which has come into force five months back particularly when the first appeal preferred against the order of removal is already seized for consideration before the Appellate Authority i.e. the District Collector would not be permissible.
7. Though, counsel for the petitioner submits that the reasons assigned by the District collector while rejecting the interim application is a non speaking order and ground of rejection of the revision of the Revisional Authority with the Appellate Authority is in the process of deciding the appeal are not proper and sufficient ground for rejecting the interim application. This Court thus is of the opinion that these grounds that petitioner has raised would be of no consequence at this juncture for the reasons that much water and times has flown as it is more than five months time that the order of removal has come into force. The only remedy which the petitioner now would be to pursue the appeal on its merits. In case, if he succeeds then consequential relief can be granted by the Appellate Authority.
8. It is expected that Appellate Authority shall take a decision on the appeal at the earliest.

9. The writ petition accordingly fails and is rejected with the aforesaid observations.

Sd/-
(P. Sam Koshy)
Judge

Rohit