CGHC010261212021 2026:CGHC:46676

RUCHI YADAV Digitally signed by RUCHI YADAV

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPC No. 4036 of 2021**

**1 -** Smt. Rambha Verma W/o Late Anek Ram, Aged About 79 Years R/o. Village Parsada (Raymond), Police Station Mulmula, District Janjgir - Champa Chhattisgarh.

**... Petitioner(s)**

**versus**

**1 -** State Of Chhattisgarh, Through - The Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Atla Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

**2 -** Commissioner, Bilaspur Division, Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

**3 -** Collector District Janjgir - Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

**4 -** Sub Divisional Officer (Revenue), Janjgir, District Janjgir - Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

**5 -** Aniruddh Lal Verma S/o Uday Ram Verma, Aged About 65 Years R/o. Village Parsada (Raymond), Police Station Mulmula, District Janjgir - Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

**... Respondent(s)**

**( Cause title taken from CIS Periphery)**

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| For Petitioner(s) | : | Ms. Vaishali Jeswani, appears on behalf of Mr. Manish Nigam, Advocate |
| For State/Respondent | : | Mr. Priyank Rathi, G.A. |
| For Respondent No.5 | : | Mr. Bharat Rajput, Advocate |

**SB: Hon'ble Mr. Justice Amitendra Kishore Prasad**

**Order on Board**

**04/11/2026**

1. By way of this petition, the petitioner has prayed for following reliefs:-

> "10.1 That, this Hon'ble Court may kindly be pleased to set-aside the impugned memo dated 03-08-2021 (Annexure P-1) passed by the respondent No.4.
>
> 10.2 Any appropriate writ, direction or order may also kindly be passed in favour of the petitioners, which this Hon'ble Court deems fit in the circumstances of the case."

2. Learned counsel for the petitioner submits that no opportunity of hearing was afforded to the petitioner and that certain enquiries were conducted behind her back. She further submits that the petitioner, who was the Ex-Sarpanch, was held liable to deposit a sum of Rs.17,35,000/- without issuance of any prior notice or affording her an opportunity of hearing before passing the recovery order. She places reliance upon the orders passed by this Court in WPS No. 3794 of 2018, WPC Nos. 3374 of 2025, 3831 of 2021 and 1033 of 2026.

3. Learned State counsel submits that certain irregularities were found during the enquiry and, accordingly, after quantification of the amount involved, notice was issued to the petitioner in accordance with law.

4. Learned counsel appearing for respondent No. 5, who is the complainant in the matter, submits that the complaint was made regarding certain financial irregularities committed during the tenure of the petitioner as Sarpanch and the authorities have initiated action on the basis of the enquiry conducted in this regard.

5. I have heard learned counsel for the parties and perused the material available on record.

6. In the matter of **Smt. Santoshi Manhare Vs. State of Chhattisgarh and others** passed in **WPC No. 1033 of 2026** vide order dated **11.03.2026,** this Court held in paras 4, 5 and 6 which reads as under:-

> “4. The Hon'ble Supreme Court in the matter of **Kadam Singh** (supra) held that no recovery shall be made under Section 89 of the Adhiniyam, 1993 unless the person concerned has been given a reasonable opportunity of hearing. Relevant para 10 and 11 are reproduced here-in-below :-
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> > "10. From bare perusal of section 89 it is clear that every Panch, member, office-bearer, officer or servant of Panchayat shall be personally liable for the loss, waste or misappropriation of any money or other property of the Panchayat to which he has been a party or which has been caused by him by misconduct or gross neglect of his duties. The said amount is liable to be recovered by the prescribed authority. As per the proviso to this section no recovery shall be made under this section unless the person concerned has been given a reasonable opportunity of being heard. That every Panch, member. office-bearer, officer or servant of Panchayat may be existing or ex or removed who has caused loss to the Panchayat by misconduct or gross neglect of his duties

and required for reimbursing such loss, waste of misapplication and same can be recovered even after demitting office by them, as the case may be. The section 89 specifically provides that an adjudication must be done and as per the proviso reasonable opportunity of hearing ought to have been given to those persons. In the present case there is no such adjudication under section 89 of the Act.

11. After adjudication under section 89, Section 92 gives power to prescribed authority to recover the records, articles and money belonging to the Panchayat from the custody of any person. Under subsection(2) of section 92. if any person fails or refuses to deliver the record or article or pay the money then the prescribed authority may apprehend him with a warrant for sending him to civil jail and under subsection (3) may recover such money as arrears of land revenue. As such under section 92 powers are given to the prescribed authority for execution of the order passed under section 89. In the present case there is no adjudication under section 89, therefore, there cannot be any execution proceeding or order order passed therein under section 92 of the Act. The prescribed authority has straight away on the basis of ex-parte enquiry report initiated recovery under section 92. In view of the above, the impugned show cause notice as well as the final order. dated 8.10.2015 are hereby set aside. Needless to say that still respondents/authority shall be at liberty to take prompt action against the petitioner under section 89 & 92 of the Panchayat Act."

5. Section 89 of the Adhiniyam, 1993, reads as under:-

**"89**. Liability of Panch etc. for loss, misappropriation.

> (1) Every Panch, member, office-bearer, officer or servant of Panchayat shall be personally liable for loss. waste or misapplication of any money or other property of the Panchayat to which he has been a party or which has been caused by him by misconduct or gross neglect of his duties. The amount required for reimbursing such loss, waste, or misapplication shall be recovered by the prescribed authority: Provided that no recovery shall be made under this section unless the person concerned has been given a reasonable opportunity of being heard.
>
> (2) If the person concerned fails to pay the amount, such amount shall be recovered as arrears of land revenue and credited lo the funds of the Panchayat concerned."

6. Taking into consideration the fact that an enquiry was conducted behind the back of the petitioner and that no enquiry was conducted in accordance with the provisions of Section 89 of the Adhiniyam, 1993, and that no opportunity of hearing was afforded to the petitioner, therefore, the notice dated 13.11.2025 and proceedings therefrom are hereby quashed."

7. In view of the law laid down by this Court in the matter of **Smt. Santoshi Manhare** (supra), it is evident that before fastening any liability under Section 89 of the Adhiniyam, 1993, a reasonable opportunity of hearing is required to be afforded to the person concerned.

8. In the present case, the petitioner has specifically contended that the impugned recovery of Rs.17,35,000/- has been ordered without

affording any opportunity of hearing. The said contention has not been satisfactorily controverted by the State counsel.

9. Accordingly, the impugned memo dated 03.08.2021 (Annexure P-1) is hereby set aside. However, the competent authority shall be at liberty to initiate fresh proceedings against the petitioner in accordance with Section 89 of the Adhiniyam, 1993, after affording her a reasonable opportunity of hearing.

10. It is made clear that this Court has not expressed any opinion on the merits of the allegations.

**11.** With the aforesaid observations, the petition stands **disposed of.**

Sd/-

**(Amitendra Kishore Prasad)**
Judge

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