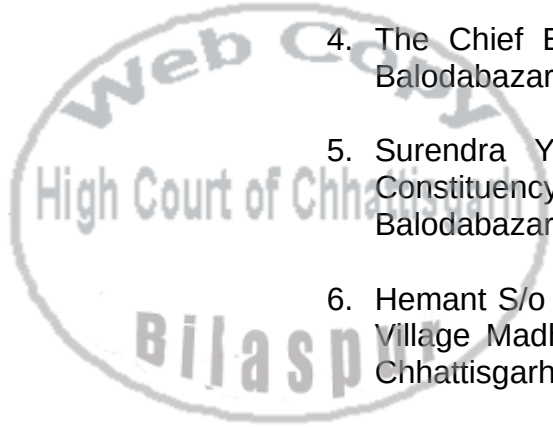


**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 1955 of 2022**

- Smt. Sangeeta Manohar Sahu W/o Shri Manohar Sahu Aged About 52 Years President, Janpad Panchayat, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.

---- Petitioner**Versus**

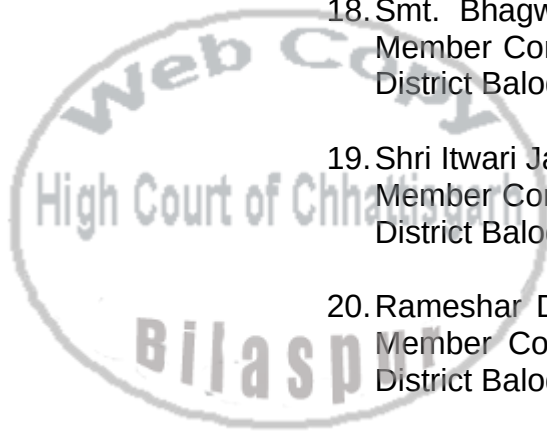
1. State Of Chhattisgarh Through The Secretary, Panchayat Department, Mantralaya, Atal Nagar, Naya Raipur Chhattisgarh. (Substituted Vide Amendment Known As The Chhattisgarh Panchayat Raj (Sansodhan) Adhinyam 1993, Act No. 8 Of 2003) The Commissioner (Revenue) Raipur District Raipur Chhattisgarh.
2. The Collector, District Balodabazar Bhatapara Chhattisgarh.
3. The Sub Divisional Officer (Revenue) Bhatapara District Balodabazar Bhatapara, Chhattisgarh
4. The Chief Executive Officer Janpad Panchayat Bhatapara, District Balodabazar Bhatapara Chhattisgarh
5. Surendra Yadu S/o Jhaduram Yadu Member Janpad Member Constituency No. 6, R/o Akaltara, Tahsil Bhatapara District Balodabazar Bhatapara Chhattisgarh.
6. Hemant S/o Kejuram Dhruw Janpad Member Constituency No. 4, R/o Village Madhuban Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
7. Narendra Kumar Yadav S/o Chintaram Yadav Aged About 30 Years Janpad Member Constituency No. 14, R/o Village Gudeliya, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
8. Rameshwar S/o Tunganath Aged About 48 Years Janpad Member Constituency No. 14, R/o Village Gudeliya, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
9. Khilawan Prasad Chaturvedi S/o Kamta Prasad Chaturvedi Aged About 50 Years Janpad Member Constituency No. 22, R/o Village Gurra, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
10. Smt. Sumitra W/o Parmeshwar Verma Aged About 42 Years Janpad Member Constituency No. 10, R/o Village Kodwa, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
11. Smt. Shaikumari W/o Shri Naresh Netam Aged About 38 Years Janpad Member Constituency No. 8, R/o Village Nipaniya Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
12. Smt. Shakuntala W/o Ramashankar Patel Aged About 45 Years Janpad Member Constituency No. 15, R/o Village Karhibazar, tahsil





Bhatapara, District Balodabazar Bhatapara Chhattisgarh.

13. Smt. Pali Bai W/o Anil Diwakar Aged About 50 Years Janpad Member Constituency No. 17, R/o Village Borsi, tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
14. Smt. Subhadra W/o Santosh Dhruw Aged About 32 Years Janpad Member Constituency No. 9, R/o Village Bharatpur, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
15. Smt. Jamuna W/o Manharan Yadu Aged About 50 Years Janpad Member Constituency No. 11, R/o Village Lalpur, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
16. Narsingh Yadav S/o Baburam Yadav Aged About 42 Years Janpad Member Constituency No. 13, R/o Village Khairatahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
17. Smt. Nandani W/o Avinash Aged About 22 Years Janpad Member Constituency No. 16, R/o Kosmanda Khairatahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
18. Smt. Bhagwati W/o Santosh Lahre Aged About 26 Years Janpad Member Constituency No. 18, R/o Village Kalmidih, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
19. Shri Itwari Jangde S/o Jhaduram Jangde Aged About 50 Years Janpad Member Constituency No. 23, R/o Village Rajadhar, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
20. Rameshar Dhruw S/o Vishram Dhruw Aged About 40 Years Janpad Member Constituency No. 12, R/o Village Patan, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
21. Smt. Santoshi Dore W/o Deepak Dore Aged About 36 Years Janpad Member Constituency No. 25, R/o Village Tikuliya, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
22. Smt. Swati Verma W/o Dinesh Verma Aged About 34 Years Janpad Member Constituency No. 20, R/o Village Maldhi, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
23. Smt. Parvati Yadav W/o Rajendra Yadav Aged About 29 Years Janpad Member Constituency No. 21, R/o Village Mirgi, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
24. Smt. Chaitany (Madhu) Deepak Verma, W/o Deepak Verma Aged About 41 Years Janpad Member Constituency No. 02, R/o Village Devrai, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
25. Smt. Sarashwati Payrelal Rajak W/o Payrelal Rajak, Aged About 48 Years Janpad Member Constituency No. 03, R/o Village Dertengi, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.
26. Smt. Sharda Golu Gupta, W/o Golu Gupta, Aged About 35 Years





Janpad Member Constituency No. 07, R/o Village Sigarpur, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.

27. Chandra Prakash Sahu S/o Vishnu Sahu Aged About 38 Years Janpad Member Constituency No. 19, R/o Village Tonatar, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.

28. Roshan Sahu S/o Jagdish Prasad Sahu Aged About 46 Years Janpad Member Constituency No. 24, R/o Village Dhourabhata, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.

---- Respondents.

CAUSE TITLE TAKEN FROM CIS PERIPHERY

For Petitioner : Mr. Hemant Gupta, Advocate.

For Respondents No.1 to 3: Mr. Animesh Tiwari, Dy. AG.

Hon'ble Shri Justice Deepak Kumar Tiwari
Order On Board

20.04.2022

1. The petitioner has filed the present petition and prayed for the following reliefs:-

"i. That the Hon'ble Court may kindly be please to quash the order dated 20.04.2022 passed by the respondent No.1/Commissioner Annexure P/1 so far as it relates to the rejection of stay application.

ii. Any other relief or relief(s) which this Hon'ble Court may deem fit and proper in view of the facts and circumstances of the case, may also kindly be granted."

2. This writ petition has been filed to challenge the order dated 20.04.2022 passed by the learned Commissioner, Division Raipur, Raipur whereby he has admitted the petition filed by the petitioner challenging no-confidence motion passed against her for the post of President, Janpad Panchayat, Bhatapara by invoking jurisdiction under Section 28 (4) Chhattisgarh Panchayat Raj Adhiniyam 1993 (hereinafter referred to as the "Act 1993"), however the Commissioner has not considered the application for interim relief as the election has been scheduled on 21st April, 2022 at 11 AM.





3. Learned counsel for the petitioner submits that when the learned Commissioner admits the petition, it cannot be left pending for getting infructuous the lis without deciding the interim relief. As the learned Commissioner has not considered the vital issue in the impugned order dated 20.04.2022, therefore, the petitioner has left with no other option but to challenge the same by invoking writ jurisdiction and prays to stay the election to be held on 21.04.2022, otherwise the purpose of filing the instant petition would be frustrated therefore, the petitioner prays to pass an appropriate order and also to stay the election to be held on 21.04.2022.

4. Upon being asked to learned counsel for the petitioner, he fairly admitted that after passing no-confidence motion on 25.03.2022 as 20 votes in favour and 5 votes against, the same has been challenged under Section 28 (4) of the Act 1993 before the learned Commissioner, Raipur Division, Raipur.

5. At this stage, it is important to point out the amendment in the Act 1993 i.e. Chhattisgarh Panchayat Raj (Sansodhan) Adhiniyam, 2003 (Act No.8 of 2003) which is significant and reproduced as under:-

“In sub Section 4 of section 28 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (No.1 of 1994) (here-in-after referred to as the Principal Act), for the words “the Commissioner”, the words “Director, Panchayat” shall be substituted.”

6. Learned counsel for the petitioner further submits that as presently no post of Director Panchayat exists and also the Commissioner has been entrusted the said work. In the present case, the petitioner has moved the petition before the learned Commissioner, Raipur, Division Raipur.

7. Per contra, learned counsel for the respondents No.1 to 3



submits, on instructions, that the post of Director Panchayat exists and he vehemently put-forth his submission to the effect that the petitioner cannot be allowed to take benefit of her own mistake. The petitioner ought to have moved before the Director Panchayat instead of preferring the petition before the learned Commissioner. Learned counsel further submitted that the election should ordinarily not be stayed as the amendment in the Code of Civil Procedure to restrain any election invoking power under Order 39 of CPC is banned.

Countering the submission, learned counsel for the petitioner submits that jurisdiction of writ court is wide.

8. Considering all the aspects in the issues, though the petitioner has filed a petition under Section 28 (4) of the Act 1993 challenging the no-confidence motion before the Commissioner which is not the appropriate forum as the law is explicit under Section 28 (1) of the said Act when resolution is passed then the concerned President or Vice President shall cease to hold office forthwith, if a person is aggrieved with such order, then he has a right to approach the proper forum or competent authority which the petitioner has not done, this Court is of the view that the petitioner has not been able to make out a case for interference.

9. Accordingly, the present Writ Petition being devoid of any substance deserves to be and is hereby dismissed in limine.

Sd/-

(Deepak Kumar Tiwari)
Judge

Ajay/Barve



HEADLINES

In view of amendment in Section 28 (4) of the CG Panchayat Raj Adhiniyam 1993, petition be preferred before the Director Panchayat instead of Commissioner. The petitioner cannot be allowed to take benefit of his own mistake, as the petitioner has availed remedy before wrong forum. Petition dismissed in limine.

