

MF-1007-

①

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH  
AT BILASPUR

Writ Petition (C) NO. 1693 /2012

PETITIONER

Smt Dashoda Kanwar, aged about 40 years, Sarpanch Gram Panchayat Kosmanda, Tahsil Champa, District Janjgir-Champa (C.G.)

R.No. ... WP (C) 1693/12  
Presented by Shri ... Rathore  
dated ... 21.9.12

VERSUS

RESPONDENTS

- 1) State of Chhattisgarh through Secretary Panchayat and Social Welfare Department, D.K.S. Bhawan, Raipur (C.G.)
- 2) Jagdish Prasad Rathore Up Sarpanch, Gram Panchayat Kosmanda, Tahsil Champa, District Janjgir-Champa (C.G.)
- 3) Savita Devi, Officiating Sarpanch, Gram Panchayat Kosmanda, Tahsil Champa, District Janjgir-Champa (C.G.)



226/12  
WRIT PETITION UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**(Single Bench: Hon'ble Mr. T.P. Sharma, J)**

**W.P (C) No.1693/2012**

**PETITIONER**

Smt. Dashoda Kanwar

**Vs**

**RESPONDENTS**

1. State of C.G.
2. Jagdish Prasad Rathore
3. Savita Devi

**Present:**

Mr. Y.C. Sharma, Advocate for the petitioner.

Mr. P. Shrivastava, P.L. for the respondent No.1/State.

Mr. H.V. Sharma, Advocate for the respondent No.2 & 3.

**ORDER**

**(28.2.2013)**

1. By this petition the petitioner has prayed for following substantial reliefs:-

10.2 That, the Hon'ble Court may kindly be pleased to set aside the order in respect of charge of post of Sarpanch to officiating Sarpanch passed in impugned order dated 17/09/2012 (Annexure P-1).

10.3 That, the Hon'ble Court may kindly be pleased to direct the respondent authority to hand over the charge to the petitioner till the decision of case remanded by the order dated 17/09/2012 (Annexure P-1).

2. Heard learned counsel for the parties and perused the petition and order impugned.

3. Learned counsel for the petitioner submits that vide order dated 17/09/2012 (Annexure P-1) the Additional Commissioner, Bilaspur Division, Bilaspur has quashed the order dated 25.6.2012 passed by the Collector, Janjgir and the order dated 27.2.2012 passed by the Sub Divisional Officer, Champa and remitted the case to the Sub Divisional Officer for taking decision afresh after providing opportunity of hearing to the parties. He further submits that while passing the order dated 17/09/2012 (Annexure P-1) the Additional Commissioner was under an obligation to restore the position as it was before passing of the order dated 27.2.2012 by the Sub Divisional Officer, that is to say, the Additional Commissioner was under an obligation to direct and permit the



petitioner to work and discharge the function of Sarpanch but by directing the *ad hoc* Sarpanch to discharge function of Sarpanch, the Additional Commissioner has committed an illegality.

4. On the other hand, learned counsel for the respondents submit that the Additional Commissioner has not quashed both the orders but has quashed only part of the orders whereby the Collector and the SDO failed to provide opportunity of defence evidence to the petitioner. Therefore by not permitting/directing the petitioner to discharge function of Sarpanch, the Additional Commissioner has not committed any illegality.
5. Operative part of the order dated 17/09/2012 (Annexure P-1) reads thus:-

“अतः उपरोक्त विवेचना के परिणाम स्वरूप कलेक्टर जांजगीर-चांपा के द्वारा पारित आदेश दिनांक 25.06.2012 एवं अनुविभागीय अधिकारी चांपा के द्वारा पारित आदेश दिनांक 27.02.2012 में बचाव साक्ष्य संबंधी निष्कर्ष के अंश को निरस्त किया जाता है साथ ही अनुविभागीय अधिकारी चांपा को निर्देशित किया जाता है कि पुनरीक्षणकर्ता को वाद विषय के संबंध में बचाव साक्ष्य प्रस्तुत करने हेतु युक्तियुक्त अवसर प्रदान कर समुचित रूप से सुनवाई पश्चात् यथाशीघ्र गुण दोष पर विधिसम्मत आदेश पारित करें। यह भी आदेशित किया जाता है कि प्रकरण में उपरोक्त कार्यवाही के निराकरण की अवधि में ग्राम पंचायत की सामान्य प्रक्रिया एवं कार्यवाही तथा दायित्व को गतिमान रखने के उद्देश्य से वर्तमान स्थानापन्न सरपंच पंचायत का कार्य संपादित करें। यह पुनरीक्षण आंशिक रूप से मान्य किया जाता है।”

6. Perusal of the operative part of the order impugned reveal that part of finding of the Collector and the SDO relating to defence evidence have been quashed which requires clarification whether the Additional Commissioner has quashed the entire orders passed by the Collector and the SDO or partially quashed the same.
7. In the light of the aforesaid observation the instant petition is disposed of with the direction that the petitioner is at liberty to file appropriate application before the Additional Commissioner, Bilaspur Division, Bilaspur for clarification of the order dated 17.9.2012, especially in light of the operative part of the order dated 17.9.2012, and the Additional Commissioner is required to clarify the same. No order as to costs.
8. Certified copy as per rules.

Sd/-  
T.P. Sharma  
Judge