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IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

W.P. (S) NO. 396 /2011

PETITIONER

✓ Deepchandra Shivhare S/o Shri
Indrapal Shivhare, aged about 40
years, R/o Janpad Panchayat Sonhat,
District – Koriya (C.G.)

VERSUS

RESPONDENTS

- 1] State of Chhattisgarh
Through: Secretary, Panchayat &
Rural Development Department, DKS
Bhawan, Raipur (C.G.)
- 2] Collector, Koriya, District – Koriya
(C.G.)
- 3] Sub Divisional Officer, (Revenue),
Sonhat, District – Koriya (C.G.)
- 4] Chief Executive Officer, Zila
Panchayat, Koriya, District – Koriya
(C.G.)
- 5] Chief Executive Officer, Janpad
Panchayat Sonhat, District – Koriya
(C.G.)
- 6] Janpad Panchayat Sonhat
Through – Its President, Janpad
Panchayat Sonhat, District- Koriya
(C.G.)

P.R. No. 1037/2011
Presented by: *Deepchandra Shivhare*
dated: 17/12/2011



WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA

1] PARTICULARS OF THE PETITIONER (S):

As stated above in the cause title.

2] PARTICULARS OF THE RESPONDENT (S):

As stated above in the cause title.



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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 996 of 2011

PETITIONER : Deepchand Shivhare.

VERSUS

RESPONDENTS : State of Chhattisgarh & Others.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

SB: Hon'ble Shri Satish K. Agnihotri, J.

Present: Shri Vaibhav Goverdhan, Advocate for the petitioner.
Shri Gary Mukhopadhyay, Panel Lawyer for the State/
respondent No. 1 to 3.
Shri Y.S.Thakur, Advocate for the respondent No. 4 to 6.

ORDER (OPEN COURT)

(Passed on 31st day of January, 2013)

1. With the consent of learned counsel appearing for the parties, the matter is heard finally.
2. By this petition, the petitioner seeks quashing of the order dated 28.01.2011 (Annexure P/1) issued by the Collector, Korla and the order dated 31.01.2011 (Annexure P/2) issued by the Chief Executive Officer (*for short 'the CEO'*), Janpad Panchayat, Sonhat, whereby the appointment of the petitioner on the post of Data Entry Operator and subsequently on the post of Assistant Grade III, was cancelled and he was terminated from service.
3. Shri Goverdhan, learned counsel appearing for the petitioner submits that the Collector, Korla, exercising its power under section 85(1)(a) of the Chhattisgarh Panchayat Raj Adhiniyam, 193 cancelled the order of appointment dated 12.03.2010 (Annexure P/10) whereby the petitioner was appointed on the post of Assistant Grade III, on the ground that the appointment itself was not in accordance with law.
4. The petitioner was appointed by the CEO, Janpad Panchayat, Sonhat, by order dated 12.03.2010 (Annexure P/10). Section 85 of the Act, 1993 reads as under:

"85. Power to suspend execution of order etc.- (1) The State Government or the prescribed authority may by an order in writing and for reasons to be stated therein suspend the execution of any resolution passed, order issued, licence or permission granted or prohibit the performance of any act by a Panchayat, if in his opinion. -



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- (a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised;
 - (b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or is contrary to any law; or
 - (c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely –
 - (i) to cause loss, waste or misapplication of any money or damage to any property vested in the Panchayat;
 - (ii) to be prejudicial to the public health, safety or convenience;
 - (iii) to cause injury or annoyance to the public or any class or body of persons; or
 - (iv) to lead to a breach of peace.
- xxx xxx xxx
xxx xxx xxx”

5. On bare perusal of the provisions, it is crystal clear that the State Government or the prescribed authority i.e. the Collector may suspend the execution of the resolution or the order or prohibit the performance of any act by a Panchayat. However, the Collector has no authority to cancel the order passed by the CEO, Janpad Panchayat. In view of that, the order dated 28.01.2011 (Annexure P/1) issued by the Collector, Korla is not in accordance with law, and as a sequel, the order dated 31.01.2011 (Annexure P/2) passed by the CEO, Janpad Panchayat, Sonhat, is also vitiated.
6. Thus, both the orders dated 28.01.2011 (Annexure P/1) and 31.01.2011 (Annexure P/2) are quashed. However, on the request of learned counsel appearing for the State/respondents, liberty is reserved to re-consider the case of the petitioner and pass a fresh order, if so advised.

Amit

Sd/-
Satish K. Agnihotri
Judge