

(2019) 10 CHH CK 0095

Chhattisgarh High Court

Case No: Writ Petition (C) No. 3662 Of 2019

Kamalnarayan Rajput

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Oct. 16, 2019

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Sharmila Singhai, P. Acharya

Final Decision: Disposed Of

Judgement

P. Sam Koshy, J

1. The challenge in the present writ petition is to the Annexure P-1 dated 29.08.2019 whereby respondent No.2 Commissioner Durg Division has

granted interim stay in favour of the respondent No.6 against the order passed by the Collector dated 26.08.2019 and also the order passed by the Sub

Divisional Officer, Berla dated 13.08.2019.

2. Facts of the case are that respondent No.6 is an elected Sarpanch and respondent No.4 issued a show cause notice to the respondent No.6 alleging

certain irregularities and misconduct. The Sub Divisional Officer finally vide order Annexure P-3 found respondent No.6 to be guilty of having

committed the irregularities or misconduct and passed order of removal from the post of Sarpanch. The said order was challenged before the

Collector in an appeal and appeal is pending consideration. However, Collector rejected the application for grant of stay.

3. Rejection of the application of stay by the Collector was challenged by way of revision before the Divisional Commissioner, respondent No.2 by the

respondent No.6 and where the impugned order has been passed on 29.08.2019 staying the effect and operation of the order passed by the Collector as well as by the Sub Divisional Officer.

4. At the outset, this Court is not inclined to entertain the writ petition for the reason that powers exercised by the respondent No. 2 is one which is under his discretionary jurisdiction. The scope of interference in exercise of a discretionary jurisdiction is too limited. The other reason for not entertaining the writ petition is the fact that the order itself has now been in operation for a period of almost two months. What further has to be seen is that respondent No.2 Commissioner has called upon the disputing parties to submit their reply and for hearing of revision finally on merits.

5. Given the fact the appeal has to decide finally on merits after disputing parties complete pleadings, this Court does not find any strong case made out at this juncture to interfere with the order under challenge in the present writ petition. The writ petition accordingly stands disposed of directing respondent No.2 to ensure that since the revision itself is against the order passed in interim application decided by the Collector, the revision be decided at the earliest preferably within a period of 45 days from the date all the pleadings are complete.

6. With the aforesaid observation, this writ petition stands disposed of.