

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 31039 of 2023

Manoj Kumar Mangaraj

..... *Petitioner*

Mr. J. Panda, Adv.

-Versus-

The Collector, Kalahandi

And others

. *Opposite Parties*

Mr. D. Mund, AGA

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

08.11.2023

Order No.

02.

1. This matter is taken up through hybrid arrangement.
2. Heard.
3. Learned counsel for the Petitioner submits that the husband of the Sarpanch of Turechhada Gram Panchayat told the Petitioner to show the presence of 30 job Card holders under the MGNREGA, even if those job Card holders had not performed their duties. Therefore, the Petitioner being the GAAN SAATHI turned down the request of the husband of the Sarpanch. Therefore, the Petitioner has become the victim of vindictiveness. Further, he asked him not to perform the duty of the GAAN SATHI in the said Panchayat. When the Petitioner was not allowed to

perform his duty as GAAN SAATHI, he approached the Collector by submitting a representation stating therein the fact of disallowing him to continue as GAAN SAATHI of the Turechhada villlage of Chhapria Gram Panchayat by the Sarpanch and her husband.

4. Though the present Petitioner continued as GAAN SAATHI from the year 2017 to 2021 and was recommended that the Petitioner shall be absorbed in the said post on permanent basis. When the Petitioner did not accede to his undue and illegal order to show the presence of 30 Job Card Holders under MGNREGA Scheme even if they were absent, he was not allowed to perform his duties.

5. The action of the Opposite Parties in not allowing the Petitioner to continue as GAAN SAATHI in Turechhada villlage under Chhapria Gram Panchayat is illegal and arbitrary, being violative of Article 14 of the Constitution of India. Ventilating such grievance, the Petitioner has submitted a representation before the Collector, Kalahandi but the Collector has been sitting over the matter for such a long time.

6. He further submits that the husband of the Sarpanch of Chapria Gram Panchayat, Dist.-Kalahandi has been acting like a de facto Sarpanch. Though he has no

power, he works and portrays himself to be the Sarpanchpati. Learned counsel for the Petitioner also submits that the proxy Sarpanch cannot be allowed to hijack the role, responsibility and function of the Sarpanch.

7. At this juncture, learned counsel for the Petitioner further submits that since the present Petitioner disobeyed the dicta of the proxy Sarpanch, he has been refrained from performing his duties as Gaon Sathi. Learned counsel for the Petitioner further contends that the Petitioner is bound to comply with the order of the Sarpanch but not that of the proxy Sarpanch. Since the Petitioner disobeyed the dicta of the proxy Sarpanch, there is an oral direction by the proxy Sarpanch to disengage him from the above noted post, which is not tenable in law. Hence, this Writ Petition.

8. He contends that the menace of proxy Sarpanch is quite entrenched in grassroot level political system in the country. Recently, the Parliamentary Standing Committee on Rural Development and Panchayati Raj has also alarmed its concern through its report seeking empowering women elected representatives in Panchayati Raj Institution through training, augmenting their political capital and capacity building to curb the

menace of “Sarpanch Pati” or proxy Sarpanch. Even the male members (Husbands of female Sarpanches) are conducting village meeting and taking all political decision on behalf of their female partners. This menace has the propensity to undermine the robustness of our grassroot democracy.

9. The 73rd amendment of the Constitution of India in 1992 granted constitutional status to the traditional Panchayati Raj institutions (PRIs) in India. This helped decentralise system of governance and granted legal power to local authorities to manage village-level affairs and improve public service delivery. Article 243D of the Indian Constitution mandates the State Governments to include a provision in the respective State Acts for reserving a minimum of one third of seats for women at all levels in PRIs, whereas, the State like Odisha follows 50 per cent reservation for women in PRIs. There are a lot of Government sponsored schemes which are under implementation through the Panchayat raj Institutions including that of the appointment of Gaon Sathi and monitoring their work in the panchayat level. In the present case, the Sarpanch Pati seems to be playing a very important role in appointment and termination of the Gaon Sathi, while wielding the actual political and

decision-making power behind his spouse who is an elected as Sarpanch. This genre of Sarpanch-patism undermines the spirit and purpose of the 73rd Constitutional Amendment Act, 1992 with provisions for empowerment of women at the grassroots level and violates the constitutional rights and dignity of women, who are reduced to "faceless sarpanches" at the grassroots politics. It deprives them of their agency, autonomy, and voice in public affairs.

10. The patriarchal attitudes in the veil of proxy Sarpanch and practices greatly hinders women's participation and empowerment in public life. Enacting laws and policies to prevent and punish Sarpanch-patism and other forms of proxy politics.

11. This genre of Sarpanch Patism defeats the purpose of reservation for women in the Panchayati Raj Institution. The Panchayati Raj and Drinking Water Department is duty bound to protect the sanctity of the reservation of women in Panchayati Raj system in the State. Since the proxy Sarpanches are managing the Gram Panchayats especially where women are Sarpanches, the Government through appropriate Department has to deal with such matter seriously or else, the grassroots of the democracy would be in peril.

12. In view of the above, the Secretary, Panchayati Raj Department is directed to file a reply as to what action has been taken by the concerned Department against such proxy Sarpanches and what steps have been taken to give women Sarpanches proper capacity building training. Further, the Secretary to file an affidavit stating the availability of the provisions of complaint/grievance redressal mechanism at the District level against such erring proxy Sarpanches.

13. List this matter on 5th December, 2023.

I.A. No.14990 of 2023

1. Heard.
2. As an interim measure, it is directed that the Petitioner be permitted to discharge his duties as GAAN SAATHI in respect of Chhapria Gram Panchayat under Golamunda Block in the district of Kalahandi, till the next date.
3. A free copy of this order be issued to the learned Additional Government Advocate for onward transmission.

(Dr. S.K. Panigrahi)
Judge