

(2012) 11 JH CK 0017
In the Jharkhand High Court
Case No : Writ Petition (C) No. 4539 of 2012

Mangal Murmu

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-11-2012

Acts Referred:

Citation : (2013) 1 JLJR 114

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Atanu Banerjee, for the Appellant;

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for quashing the order dated 7.1.2012 passed by learned Commissioner, Santhal Pargana Division, Dumka in R.M.A. No. 67/2009-10 upholding the order of the Deputy Commissioner, Dumka passed in P.D. Case No. 78/2004-05. The petitioner has also prayed for quashing the order dated 29.4.2009 passed by the Deputy Commissioner, Dumka in P.D. Case No. 67/2009-10, whereby he has dismissed the petitioner from the post of Village Pradhan of Village-Kukurtopa. The grievance of the petitioner is that the Deputy Commissioner, without taking into consideration the facts and the relevant provisions of law in right perspective, has illegally passed order dated 29.4.2009 dismissing the petitioner from the office of Pradhan of the village. The order was not supported by sound reason and was wholly illegal and unsustainable. Against the said order the petitioner preferred statutory appeal before the Divisional, Commissioner, Santhal Pargana Division, Dumka which was registered as R.M.A. No. 67/2009-10. In the appeal the petitioner had challenged the order of learned Deputy Commissioner on several grounds. Learned Divisional Commissioner by his cryptic order dated 7.1.2012 mechanically dismissed the appeal without discussing the facts and materials on record as well as the grounds taken in appeal by the petitioner.

2. Learned counsel appearing on behalf of the petitioner submitted that the Divisional Commissioner, being the appellate authority, should have discharged the appellate jurisdiction in accordance with law and should have discussed all the relevant facts, materials on record and provisions of law as well as the grounds taken by the petitioner and the reasons for rejecting the same. Contrary to the established principle of law as well as the provisions laid down for hearing and disposal of the appeal, learned Divisional Commissioner has mechanically dismissed the appeal by holding that the conduct of Pradhan shows that he is not fit for the post and that he has rightly been dismissed. Though the said conclusion has been recorded, the ground on which the conclusion has been drawn, has not been discussed and appreciated. The order of learned Divisional Commissioner is cryptic and non-speaking and is contrary to law and the principle of natural justice.

3. Learned J.C. to Sr. S.C.-II appearing on behalf of the respondents, though initially tried to justify the order, has submitted that if the Divisional Commissioner has failed to record the detailed reasons, the matter may be remitted for fresh hearing and disposal of appeal in accordance with law.

4. I have heard learned counsel for the parties and perused the impugned order.

5. On perusal of the order of learned Divisional Commissioner passed in R.M.A. No. 67/2009-10, I find that neither the facts nor the materials on record have been discussed for arriving at the finding recorded by learned Commissioner. From the order it appears that only conclusion has been recorded without giving any detail or basis for the conclusion.

6. The Divisional Commissioner, being the appellate authority, has statutory duty to deal with the matter properly and assign valid reasons for coming to any finding. In the instant case, the finding is not supported by any discussion or any speaking reasons. The impugned order is, thus, contrary to the statutory provisions as well violative of the principle of natural justice and is not sustainable in law. Considering the above, the order dated 7.1.2012 passed in R.M.A. No. 67/ 2009-10 passed by learned Commissioner, Santhal Pargana Division, Dumka is quashed. The matter is remitted to learned Commissioner for fresh hearing, consideration and disposal of the said appeal in accordance with law.