

---

**(1994) 06 OHC CK 0006**  
**In the Orissa High Court**  
**Case No : O.J.C. No. 3975 of 1994**

Smt. Sarojini Sethi

APPELLANT

Vs

Collector and Others

RESPONDENT

---

**Date of Decision :** 30-06-1994

**Acts Referred:**

Orissa Grama Panchayat Act, 1964 — Section 115

**Citation :** (1994) 2 OLR 212

**Hon'ble Judges :** K.L. Issrani, J;A. Pasayat, J

**Bench :** Division Bench

**Advocate :** Basudev Misra, H. Kanungo and B.K. Rath, for the Appellant; B. Das, A.S.C., for the Respondent

---

## Judgement

A. Pasayat, J.—Heard learned counsel for petitioner and the learned counsel for State.

2. When the elected Sarpanch of Mahana Grama Panchayat was declared disqualified, petitioner took over charge as Sarpanch being the Naib-Sarpanch with effect from 1-8 1993. On the allegation of having committed various irregularities, in violation of statutory provisions, she has been placed under suspension by the order of Collector dated 9-5-1994 in purported exercise of power under Sub-section (1) of Sec 115 of the Orissa Grama Panchayat Act. 1964 (in short, the "Act"). Petitioner's main challenge in the writ application is that the grounds on which action has been taken against her are either non-existent, or on mis-interpretation of actual facts situation.

3. Learned counsel for State on instruction submits that action taken by the Collector has been reported to the State Government as, required under Sub-section (1) of Section 115 of the Act on 9-5-1994, and the matter is pending before the Government for decision.

4. In terms of Sub-section (2) of Section 115 of the Act, the State if Government on the report of the Collector made under Sub-section (1), or Government

themselves are of the opinion that circumstances specified in Sub-section (1) of Section 115 in relation to a Sarpanch or Naib-Sarpanch exist, then on its motion, after giving the concerned person reasonable opportunity of showing cause, may remove him from the office of Sarpanch or Naib-Sarpanch, as the case may be. Action of the Collector is subject to scrutiny by the State Government. In terms of sub-sec. (3) of Section 115, State Government have power to suspend if not already under suspension pending disposal of the proceeding under Sub-section (2). It may also revoke the order of suspension during pendency of the proceeding. In an appropriate case it may differ from the conclusions arrived at by the Collector regarding action to be taken against the Sarpanch or Naib-Sarpanch, as the case may be, and may refuse to remove him. At this stage, it would not be proper to interfere as the matter is stated to be under consideration of the Government. A person placed under suspension has right to be heard before a final decision is taken and the same is prescribed in Sub sec. (2) itself. This is a statutory recognition of the principles of natural justice. The universally respected rule of "audi alteram partem" (hear the other side) has been embodied in the provision. What follows from the rule is that, "quidam statuetit parte inaudite altera requum licet di(sic)erit, baud requum facerit" (he who shall decide anything without other side having been heard, although he may have said what is right, will not have done what is right). But an early decision in the matter is always appropriate in the interest of all concerned. If a person has not committed any contravention as alleged, certainly he should not be kept in animated suspension for a very long period. On the other hand, if a person deserves removal sooner it is done better it would be for the Grama Panchayat, and inhabitants of the Grama.

In the circumstances, we direct the Government to take a final decision in the matter within two months from the date of receipt of our order after due notice to the petitioner as contemplated in Sub-section (2) of Section 115 of the Act.

The writ application is disposed of. No costs.

K.L. Issrani, J.

I agree.