



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/170/2023

Smti. Likha Yager,
W/o Shri Likha Tania
R/o Village- Peji Taib P.O & P.S-Yazali,
District- Lower Subansiri, Arunachal Pradesh

.....**Petitioner**

VERSUS

1. The state of Arunachal Pradesh

Represented by Secretary, Department
Of Panchayati Raj, Itanagar

2.The Deputy Commissioner

Ziro, Lower Subansiri District
P.O & P.S- Yazali, Arunachal Pradesh

3. The Circle Officer-Cum- Member Secretary,

2/6 Kuchkut Gram Panchayat, Yazali,
P.O & P.S- Yazali, (A.P)

4. Shri Chukhu Dokho, GPM,

02/06/07 Tekir Segment
Lichlith village, P.O & P.S-Yazali
District- Lower Subansiri, Arunachal Pradesh.

5. Shri Likha Abu

GPM, 2/6/5 Tacho Deli Segment
Delipeji village, P.O & P.S- Yazali
District- Lower Subansiri, Arunachal Pradesh

6. Shri Debia Sakha

GPM, 02/06/09 Rat Taib segment,
Taib village, P.O & P.S Yazali,
District- Lower Subansiri, Arunachal Pradesh

7. Smti. Taug Ashu

GPM, 02/06/02 Dili segment,
Delipeji village, P.O & P.S-Yazali,
District- Lower Subansiri, Arunachal Pradesh.

8. Shri Likha Tai, GPM

02/06/01 Rawa Dili Segment,
Delipeji Village, P.O & P.S-Yazali,
District- Lower Subansiri, Arunachal Pradesh.

9. Licha Topu, GPM

02/06/06 Lichlith village, P.O & P.S-Yazali,
District- Lower Subansiri, Arunachal Pradesh

10. Smti. Licha Yaya, GPM

02/06/03 Kuckkuth village, P.O & P.S-Yazali,
District Lower Subansiri, Arunachal Pradesh

11. Smti. Likha Yaja, GPM

02/06/04 Khompu Nyoli Segment,
Kuch Kuth village, P.O & P.S-Yazali,
District Lower Subansiri, Arunachal Pradesh

.....Respondents

BEFORE
HON'BLE MR. JUSTICE AJIT BORTHAKUR

For the petitioner	: Mr. K. Taja, Advocate
For the respondents	: Mr. S. Tapin, Senior Government Advocate, AP Mr. R. Nabam, Advocate

Date of hearing	: 05.10.2023
Date of Judgment/Order	: 05.10.2023

JUDGMENT & ORDER

05.10.2023

Heard Mr. K. Taja, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate, Arunachal Pradesh for the State respondent Nos. 1, 2 & 3 and Mr. R. Nabam, learned counsel appearing for the respondent Nos. 3 to 11.

2. This writ petition is directed against the notice dated 23.03.2023, issued by the Circle Officer-cum-Member Secretary, 02/06 Kuchkuth GP, Yazali, vide Memo No. YZL/PR/2019/1373-77, whereby, it has been notified that as per Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, a motion of no-confidence against the petitioner, who is the Gram Panchayat Chairperson of 02/06, Kuchkuth Gram Panchayat, shall be conducted on 03.04.2023 at 1100 Hours in the Office of the Circle Officer, Yazali.

3. The petitioner's grievance is that she is the elected Gram Panchayat Chairperson of Kuchkuth Gram Panchayat after she was elected from the said Gram Panchayat Constituency. However, the impugned notice dated, 23.03.2023, was issued by the Circle Officer-cum-Member Secretary, 2/6 Kuchkuth GP, Yazali, vide Memo No. YZL/PR/2019/1373-77 directing to hold no-confidence motion on 05.01.2023 against her based on an application filed by 8 GPM raising some allegations. Mr. Taja, learned counsel for the petitioner contends that the petitioner was elected as a Gram Panchayat Member of 02/06 Kuchkut Gram Panchayat from the 2/6/10 Peji Taib Gram Panchayat Constituency on 26.12.2020. The petitioner was further elected as Chairperson of 02/06 Kuchkuth Gram Panchayat on 15.01.2021. While the petitioner was elected as Chairperson of 2/6 Kuchkut Gram Panchayat, an

application, dated 07.12.2022, was submitted to the Circle Officer-cum-Member Secretary, 02 Yazali Zilla Segment, by one Shri Chukhu Dokho GPM. 02/06/07 Tekir Segment and 7 (seven) others, on the basis of which, a notice under Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, dated 29.12.2022 was issued by the Circle Officer-cum-Member Secretary, 02/06 Kuchkuth GP, Yazali, vide Memo No. YZL/PR/2019-1227-31, whereby, a no-confidence motion against the petitioner was fixed on 05.01.2023 at 1100 Hours in the Office of the Circle Officer, Yazali, which, however, was deferred to 23.01.2023 by an another notice issued on 13.01.2023 by the Circle Officer-cum-Member Secretary, 02/06 Kuchkuth GP, Yazali, vide Memo No. YZL/PR/2019-1256/60. The aforesaid notice for no-confidence motion against the petitioner was, however, withdrawn by an application, dated 21.01.2023, submitted to the Circle Officer-cum-Member Secretary, Yazali, Lower Subansiri District by Shri Chukhu Dokho GPM.

4. While the matter rested thus, the said Shri Chukhu Dokho GPM 02/06/07 Tekir Segment, along with 7 (seven) other Gram Panchayat Members, had submitted yet another application, dated 22.03.2023 to the Circle Officer-cum-Member Secretary, 02 Yazali Zilla Segment, seeking no-confidence motion against the petitioner from the Chairperson of Gram Panchayat of 02/06 Kuchkuth Panchayat. Pursuant thereto, another notice under Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, dated 23.03.2023 was issued by the Circle Officer-cum-Member Secretary, 02/06 Kuchkuth GP, Yazali, vide Memo No. YZL/PR/2019/1373-77, whereby, no-confidence motion against the petitioner, who is the Gram Panchayat Chairperson of 02/06 Kuchkuth Gram Panchayat, has been scheduled to be held on 03.04.2023 at 1100 Hours in the Office of the Circle Officer, Yazali.

5. According to Mr. Taja, learned counsel for the petitioner, a no-

confidence motion against a Chairperson of Gram Panchayat under Section 63 of the Arunachal Pradesh Panchayati Raj Act, 1997, is to be preceded by a notice of at least 7 (seven) days in writing to the Member Secretary by one-third of the total number of the Members of the Gram Panchayat. In the instant case, the impugned notice of no-confidence motion by the Member Secretary, having been issued on the next date of the application received by the Member Secretary from one-third number of members of the Gram Panchayat, there has been a violation of Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, which provides for at least 7 (seven) days' notice in writing to the Member Secretary.

6. Mr. Taja, further contends that the earlier no-confidence motion notice, dated 13.01.2023 having been withdrawn by the members on 21.01.2023, which according to him amounted to defeat of the no-confidence motion against the petitioner, there cannot be another no-confidence motion brought against the petitioner, within a period of one year from the defeat of the last no-confidence motion brought against the petitioner.

7. In support of his contention, Mr. Taja, learned counsel for the petitioner has relied upon a decision of the Hon'ble Supreme Court, rendered in ***Civil Appeal No. 3047 of 2015, arising from S.L.P.(C) 6237/2014***, in the case of ***Vipulbhai M. Chaudhary vs. Gujarat Cooperative Milk Marketing Federation Limited and Ors.***

8. Mr. Tapin, learned Senior Government Advocate, on the other hand, submits that the notice contemplated under Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, is 7 (seven) days' notice in writing to the Member Secretary, by one-third of the total number of elected Members of the Gram Panchayat.

9. In the instant case, the notice to the Member Secretary by more than one-third of the total elected members of the Gram Panchayat seeking no-confidence motion against the petitioner having been issued on 22.03.2023 and the meeting of no-confidence motion against the petitioner having been fixed on 03.04.2023, which is a date, 7 (seven) days after the notice, dated 23.03.2023, in writing served to the Circle Officer-cum-Member Secretary, 02 Yazali Zilla Segment by one-third of the total members of the Gram Panchayat, there is no violation of Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997.

10. I have considered the rival submissions advanced by the learned counsel of both sides. Perused record. Also perused the citation relied upon by the petitioner.

11. Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, is reproduced hereinbelow for ready reference:

“63. (1) A Motion of no-confidence may be moved by one-third of the total number of directly elected members of a Gram Panchayat or an Anchal Samiti or a Zilla Parishad against its Chairperson after giving at least seven days notice in writing to the Member Secretary or any other prescribed authority of Gram Panchayat or Anchal Samiti or Zilla Parishad of their intention to move such a motion.”

12. On perusal of Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, it appears that a motion of no-confidence may be moved by one-third of the total number of Gram Panchayat members against its Chairperson after giving at least 7 (seven) days' notice in writing to the Member Secretary or any other prescribed authority of the intention to move such a motion. Thus, it appears that a motion of no-confidence may be moved by one-third of the total members of a Gram Panchayat against its Chairperson after notice in writing to the Member Secretary or any other prescribed authority has been given at least 7 (seven) days prior to the

motion of no-confidence informing the intention of moving such a motion.

13. In the instant case, there is no dispute that the notice served upon the Circle Officer-cum-Member Secretary, 02 Yazali Zilla Segment, on 22.03.2023 by 8 (eight) Gram Panchayat Members of 02/06 Kuchkuth Gram Panchayat out of total 10(ten) such members, is by more than one-third of the total members of the Gram Panchayat of 02/06 Kuchkuth Gram Panchayat. The impugned notice of no-confidence motion against the petitioner, who is the Chairperson of the 02/06 Kuchkuth Gram Panchayat, issued under Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997, by the Circle Officer-cum-Member Secretary, 02/06 Kuchkuth GP, Yazali, vide Memo No. YZL/PR/2019/1373-77, fixing 03.04.2023 as the date for motion of no-confidence against the petitioner, is well after 7 (seven) days of the notice given by more than one-third of the total members of the Gram Panchayat of the 02/06 Kuchkuth Gram Panchayat to the Circle Officer-cum-Member Secretary, 02 Yazali Zilla Segment. Thus, it is apparent that there has been a compliance of the provision of Section 63(1) of the Arunachal Pradesh Panchayati Raj Act, 1997.

14. On the other contention raised by Mr. Taja, learned counsel for the petitioner, that once the no-confidence motion is defeated, a fresh motion of no-confidence cannot be introduced within a year. In this context, Mr. Taja relies on the principle laid by the Hon'ble Supreme Court, referred to hereinabove. It appears that the aforesaid decision of the Hon'ble Supreme Court was rendered in the context of a Cooperative Society in the State of Gujrat with reference to various local laws and bye laws of states, which in the considered view of this Court, would have no application in the facts and circumstances of this case, unless, such a similar provision is incorporated in the Arunachal Pradesh Panchayati Raj Act, 1997.

15. On the other hand, it appears that the petitioner has not challenged the proceeding and passing of the no-confidence motion, which was held on 03.04.2023 and whereby she was removed from the office of the Gram Panchayat Chairman nor produced any document in this regard. Thus, it is noticed, the petitioner has not come with clean hands seeking remedy under the writ jurisdiction. The petitioner further appears to have not brought on record the aforesaid material facts that developed consequent upon the impugned notice, dated 23.03.2023 vide Annexure- VII was passed on 03.04.2023 after withdrawal of the first no-confidence motion on 21.01.2023 vide Annexure-V, that is, without a formal defeat of the motion, that was called for, on the floor of the Gram Panchayat. No amendment to the writ petition has been made in view of the aforesaid subsequent developments, which was necessary for a fair and just disposal of the entire grievance of the petitioner.

16. In view of the above reasons, the instant writ petition being devoid of any merits, the same stands **dismissed**.

Accordingly, the writ petition is disposed of.

JUDGE

Comparing Assistant