

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 97 of 2017**

1. Puran Singh Sidar S/o Late Shri Bhog Singh Sidar, Aged About 35 Years Panch Ward No. 8, R/o Gram Panchayat Mohgaon, Tahsil Sakti, District Janjgir Champa (Chhattisgarh)
2. Dulari Bai Sahu W/o Shri Bhuvneshwar Sahu, Aged About 40 Years Panch Ward No. 2.
3. Janki Bai Sahu, W/o Uday Ram Sahu, Aged About 38 Years Panch Ward No. 3.
4. Smt. Ganga Bai Mahant W/o Shri Dildas Mahant, Aged About 45 Years Panch Ward No. 5.
5. Shivcharan Yadav S/o Late Shri Dashrath Yadav, Aged About 34 Years Panch Ward No. 4.
6. Ramkunvar Sidar W/o Shri Gulab Singh Sidar, Aged About 50 Years Panch Ward No. 6.
7. Smt. Phool Bai Sahu W/o Shri Dayashankar Sahu, Aged About 45 Years Panch Ward No. 7.
8. Smt. Malti Das Mahant W/o Shri Ajit Das Mahant Aged About 30 Years Panch Ward No. 10.
9. Tilakram Sahu S/o Shri Maniram Sahu, Aged About 38 Years Panch Ward No. 9.
10. Smt. Guruwari Bai Gond W/o Shri Shankar Gond, Aged About 45 Years Panch Ward No. 11.

All Appellants R/o Gram Panchayat Mohgaon, Tahsil Sakti, District Janjgir Champa (Chhattisgarh)

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1. State of Chhattisgarh Through Collector Janjgir, District Janjgir Champa (Chhattisgarh)
2. Shri S. Jaiwardhana, Sub Divisional Office (Revenue) Sakti, District Janjgir Champa (Chhattisgarh)
3. Shri P. R. Bhaskar, Presiding Officer And Tahsildar Sakti, District Janjgir Champa (Chhattisgarh)
4. Shri Kartik Ram Jaiswal S/o Shri Jagannath Prasad Jaiswal, Aged About 35 Years Panch Ward No. 1, R/o Gram Panchayat Mohgaon, Tahsil Sakti, District Janjgir Champa (Chhattisgarh)
5. Roopnarayan Khunte S/o Shri Ramkanhai Khunte, Aged About 40 Years R/o Village Ghoghra, Post Office Sendari, Police Station & Tahsil Sakti, Civil & Revenue District Janjgir Champa (Chhattisgarh)

---- Respondents

For Appellants : Shri Sushobhit Singh, Advocate.
 For State/Respondents : Shri Vaibhav Goverdhan, Advocate.
 For Respondent No. 5 : Shri Ramesh Kumar Nayak, Advocate.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Pritinker Diwaker, J.

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

22/03/2017

1. We have heard the learned counsel for the Appellants quite in extensio.
2. The issue arising for decision in this appeal is as to whether we could interfere through this intra-court appeal with the judgment of the learned Single Judge holding that the no confidence motion against Respondent No. 5 i.e. Roopnarayan Khunte was carried in accordance with law, that is to say in terms of provisions of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the 1993 Act') read with the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Jila

Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (for short 'the 1994 Rules'). The learned Single Judge has referred to and has interpreted sub-section (2) of Section 21 of the 1993 Act to hold that the Sarpanch or the Up-Sarpanch against whom the no confidence motion is moved shall have a right to speak at, or otherwise to take part in, the proceedings of the meeting. This interpretation of the learned Single Judge is nothing but a pure and simple reading and application of the relevant legal statutory provisions which is clear and categorical. No interference is called for in that regard.

3. Intertwined issues of facts and law appears to have been raised based on Annexure P/5 at page 20 of the paper book of the writ petition. We have gone through the contents of that document and have assimilated them for dilating on the contents of that document and considering the facts of the case. The learned Single Judge has, through para 11 of the impugned judgment stated that all that has been recorded in that resolution is regarding the action carried forward by the mover of the motion, namely Smt. Malti Das Mahant who was allowed to speak. The learned Single Judge held that the resolution does not record that the motion was discussed in the presence of all.
4. The learned Single Judge has also made a comparative evaluation of the opportunity that was available to the mover of the motion and the Sarpanch. On facts, it was thus held that the mandatory provision in sub-section (1) of Section 22 of the 1993 Act stood breached. The said finding has been rendered by the learned Single Judge after assimilating the materials on record and is predominantly a finding of fact, rendered on the basis of the laws that apply. The conclusions arrived at by the learned Single Judge cannot be held to be unavailable on the basis of materials on record.

Therefore, we would not be justified in interfering with that in exercise of our authority through this intra-court appeal dealing with the writ jurisdiction. This plea also therefore fails.

5. For the aforesaid reasons, this writ appeal fails and is accordingly dismissed in *limine*.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Pritinker Diwaker)
JUDGE