

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No.2809 of 2016

1. Smt. Bhumisuta Sahu W/o Pradeep Sahu, Aged About 32 Years Panc Ward 06, Gram Panchayat Koliha Devari Janpad Panchayat Basana Distirct Mahasamund Chhattisgarh
2. Smt. Hembai W/o Ramchandra, Aged About 45 Years Panc Ward 11, Gram Panchayat Koliha Devari Janpad Panchayat Basana Distirct Mahasamund Chhattisgarh
3. Kedar Nag, S/o Santosh Nag, Aged About 32 Years Panc Ward 02, Gram Panchayat Koliha Devari Janpad Panchayat Basana Distirct Mahasamund Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Thorugh The Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhavan, Mantralaya Naya Raipur, Distirct Raipur Chhattisgarh
2. The Collector, Mahasamund, Distirct Mahasamund Chhattisgarh
3. Sub Divisional Officer & Prescribed Authority Panchayat Saraypali, Distirct Mahasamund Chhattisgarh
4. The Tahsildar, Saraipali, Distirct Mahasamund Chhattisgarh
5. Smt. Nirmala Pradhan W/o Raju Pradhan Aged About 33 Years (Ex Sarpanch) Gram Panchayat Koliha Devari Janpad Panchayat Basana Distirct Mahasamund Chhattisgarh

---- Respondents

For Petitioners : Shri Hemant Kesharwani, Advocate
For Respondent No.1 to 4/State:Shri Ashutosh Pandey, Panel Lawyer
None for respondent No.5.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/04/2017

Office report and the report of the Process Server show that the respondent No.5 refused to receive the notice, therefore, it shall be treated as served.

2. Order dated 15-09-2016 passed by the Collector under a dispute under Section 21(4) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, is challenged on the ground that once Sarpanch had participated in the No Confidence Motion proceedings and in the absence of there being any prejudice caused, No Confidence Motion proceedings cannot be declared illegal only on the ground of non-compliance of the provisions relating to convening of meeting within 15 days from the date of notice. In support of his contention, learned counsel for the petitioner relies upon a decision of this Court in the case of ***Aghnuram Nishad and Others vs. State of Chhattisgarh and others, 2008(3) MPHT 1 (CG) and order dated 02-02-2015 passed in WP(227)No.791 of 2013 (Dhamendra Rattre vs. State of Chhattisgarh and others).***

3. On the other hand, learned State counsel submits that the dispute is between the petitioner and the respondent No.5.

4. In view of the aforesaid decision, the settled view of this Court has been that even if there is violation of the provision relating to convening of meeting within 15 days, when no prejudice is said to have been caused, No Confidence Motion proceedings may not be set aside only on the ground of violation of the aforestated provision.

5. In view of above, impugned order dated 15-09-2016 (Annexure P/1) passed by the Collector cannot be sustained and therefore, set aside.

6. Accordingly, the petition is allowed.

SD/-
(**Manindra Mohan Shrivastava**)
Judge