

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 62 of 2017

- Smt. Suwarti Bai Bandhde W/o Bhulau Ram Bandhde, Aged About 37 Years, Resident of Village Jotpur, Tahsil Lormi, District- Mungeli, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Social Welfare, Mantralaya Bhawan, New Raipur
2. The Collector, District- Mungeli, Chhattisgarh
3. Sub- Divisional Officer,(Revenue/Prescribed Authority, Lormi, District- Mungeli, Chhattisgarh
4. The Tahsildar, Lormi, Tahsil Lormi, District Mungeli, Chhattisgarh
5. Thakur Prasad Kosle S/o Gaya Prasad Kosle Aged About 39 Years
6. Smt. Ramkumari Kurre W/o Dhanush Ram Kurre Aged About 35 Years
7. Smt. Bedan Bai Kurre W/o Lain Das Kurre, Aged About 35 Years,
8. Smt. Gayatri Bai Sahu W/o Geeta Ram Sahu Aged About 38 Years
9. Prahlad Ram Sahu S/o Khedu Ram Sahu, Aged About 40 Years,
10. Smt. Prema Bai Ratre W/o Jagdish Ratre, Aged About 45 Years
11. Bali Ram Bande S/o Deena Ram Bande Aged About 38 Years
12. Smt. Kanti Bai Daharia W/o Fagu Ram Daharia Aged About 49 Years
13. Anukha Ram Banjare S/o Kunj Ram Banjare Aged About 42 Years
14. Porendra Pal Daharia S/o Tijau Ram Daharia Aged About 49 Years
15. Parmeshwar Patle S/o Raj Kumar Patle Aged About 38 Years
16. Smt. Swati Bai Ratre W/o Bhuneshwar Ratre Aged About 39 Years

17. Smt. Gauri Bai Kurre W/o Saheb Das Kurre, Aged About 50 Years

18. Dharam Prasad Kosle S/o Tirith Ram Kosle Aged About 35 Years

No.15 to 18 all are R/o Village Jotpur, Tahsil Lormi, District Mungeli, Chhattisgarh

---- Respondent

For Petitioner	Mr. Ravindra Agarwal, Advocate
For Respondent /State	Mr. Ramakant Mishra, Dy. AG
For Respondent No.18	Mr. P.P. Sahu, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

12/1/2017

1. Heard.

2. Challenge in this petition is to the order passed by the Additional Collector, Mungeli, rejecting the petitioner's application/reference against the motion of no confidence passed in the meeting of Gram Panchayat on 09.11.2016.

3. The Gram Panchayat consists of 15 members including the Sarpanch. On 27.10.2016, 12 members of the *Panchayat* moved motion of no confidence, on which, the Prescribed Authority called for the list of members of the *Panchayat* and upon submission of list, on 02.11.2016, he appointed the Specified Authority to convene the meeting on 09.11.2016. Notice for the said meeting was duly dispatched and thereafter, the motion was put to vote in the meeting on 09.11.2016, wherein, surprisingly, the petitioner himself voted against him and as a result, the motion was carried out unanimously with no vote

being polled in favour of the petitioner.

4. Learned counsel for the petitioner would make four fold submissions, firstly, that the notice of the meeting was not served on 13 *Panchas*; secondly, that the Specified Authority did not properly intimate the *Panchas* about the manner, in which, the ballot is to be marked; thirdly, that the Collector has wrongly rejected the reference on the ground that instead of preferring a reference under Section 21(4) of the C.G. Panchayat Raj Adhiniyam, 1993 (in short "the Adhiniyam"), the petitioner has preferred an appeal under Section 91; and fourthly, that the Prescribed Authority has not recorded any satisfaction before proceeding to appoint the Specified Authority and issue notice of the meeting to the *Panchas*.
5. I have heard learned counsel for the parties and perused the record.
6. In so far as submission Nos.1, 2 & 4 are concerned, it is to be seen that Rule 3 of the *Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janapad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1996*, provides for dispatch of notice to the *Panchas* seven days prior to the date of meeting. It nowhere speaks about service of notice to all the *Panchas*. Moreover, except the petitioner, no other *Panchas* have complained of non-receipt of notice. If the petitioner herself has not received the notice and others are not complaining about non-receipt of notice, no prejudice is caused to the petitioner. The proceedings

of no confidence motion recorded by the Specified Officer is one of the most meticulously recorded proceedings this Court has come across. It appropriately records in sequence of events which transpired in the meeting. It is particularly mentioned in the resolution that all the members present in the meeting were shown the empty ballot box, apprised of the procedure for voting and the manner, in which, the ballot is to be marked. It is not recorded that the method of marking was informed contrary to what is provided under the Rules.

7. For submission that the SDO (R) has not recorded his satisfaction before proceeding to issue notice, the order sheet -Annexure P/3 is required to be perused. The said order sheet bears signatures of all the *Panchas*, who have moved the motion of no confidence. The order sheet dated 02.11.2016 records that out of the lists supplied, 12 members have appeared in person to move the motion of no confidence, therefore, it is not permissible to argue contrary to what is mentioned in the record, which clearly suggests that 12 members personally appeared before the SDO(R) to submit the motion of no confidence.
8. Recording of satisfaction is to be culled out from reading of the entire order sheet. When the order sheet contains signatures of the appearing *Panchas*, it cannot be said that the SDO(R) was misled or he issued notice on submission of application by a counsel or one of the *Panchas*.
9. Had it been a case where the application bears signatures of

many *Panchas* but was presented by only one of them, the SDO(R) can be accused of not verifying from other members about the contents of the application, but not in a case like the present one, where 12 *Panchas* appeared in person to submit the application.

10. The fourth submission is about Collector's observation that instead of preferring a reference under Section 21(4) of the Adhiniyam, the petitioner has preferred an appeal under Section 91.

11. Learned counsel for the petitioner is correct to some extent in his above submission. However, it is also to be seen that in the preceding paragraphs of the impugned order, the Collector has dealt with the merits of the matter.

12. In any case, this Court has examined the merits of the submissions made by learned counsel for the petitioner and has not found any substance in any of the submissions, therefore remitting the matter back to the Collector to pass fresh order would be an exercise in futility, therefore, to avoid avoidable litigation, this Court proceeded to decide the matter on merits.

13. Having examined the matter, this Court does not find any substance in the petition. The writ petition fails and it is hereby dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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