

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 195 of 2017**

(Arising out of judgment/order dated 09.05.2017 in Review Petition No. 53 of 2017
passed by the Learned Single Judge)

- Smt. Nirmala Pradhan, wife of Raju Pradhan, Aged About 40 Years, R/o Gohedadar, Post Koliha Devari, P.S. Basana, District Mahasamund (Chhattisgarh)

---- Appellant**Versus**

1. Smt. Bhumisuta Sahu, wife of Pradeep Sahu, Aged About 32 Years, Panch of Ward No. 06, Gram Panchayat Koliha Devari, Janpad Panchayat Basana, District Mahasamund (Chhattisgarh).
2. Smt. Hembai, wife of Ramchandra, Aged About 45 Years, Panch of Ward 11, Gram Panchayat Koliha Devari, Janpad Panchayat Basana, District Mahasamund (Chhattisgarh)
3. Kedar Nag, son of Santosh Nag, Aged About 32 Years Panch of Ward 02, Gram Panchayat Koliha Devari, Janpad Panchayat Basana, Distirct Mahasamund (Chhattisgarh)
4. State of Chhattisgarh, Through : The Secretary, Department of Panchayat and Rural Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh).
5. The Collector, Mahasamund, District Mahasamund (Chhattisgarh)
6. Sub Divisional Officer & Prescribed Authority, Panchayat Saraipali, Distirct Mahasamund (Chhattisgarh)
7. The Tahsildar, Saraipali, Distirct Mahasamund (Chhattisgarh)

---- Respondents

For Appellant	:	Shri Raghvendra Pradhan, Advocate
For Respondent No.1	:	Shri Hemant Kesharwani, Advocate
For Respondent No.2	:	Shri Utkal Pradhan, Advocate
For Respondent No.3	:	Shri K.K. Dewangan, Advocate
For State/Respondent 4 to 7	:	Shri R.K. Gupta, Deputy Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Arvind Singh Chandel, Judge

Judgment on Board

Per, Thottathil B. Radhakrishnan, Chief Justice

04/10/2017

1. We have heard the learned counsel for the appellant and the learned advocates for the respondents including the official respondents.
2. The appellant was the Sarpanch of a Gram Panchayat. She stands removed since a no confidence motion was carried against her. She challenged it before the competent authority, namely, the District Collector. The District Collector reversed the decision which was challenged on the ground that certain rules relating to pre-decisional hearing etc were not adhered to. The Sarpanch was back in office. Some of those who moved the no confidence motion filed the writ petition. The learned Single Judge held that since the Sarpanch was present when the no confidence motion was moved and carried, it did not a matter whether she was given pre-decisional notice or whether there was substantial compliance of the rule of notice of hearing. The District Collector's decision was quashed.
3. The Sarpanch is before us contending that the Single Judge having set aside the decision of the Collector on a solitary ground; on which ground alone the District Collector had intervened; it was the situational requirement in terms of law and justice that the matter had to be remitted to the Collector for consideration of the other issues arising for decision in the Sarpanch's reference against the decision on the no confidence motion. We cannot but accept this submission since when the District Collector had interfered with the no confidence motion only on a particular point and that point has been reversed by the learned Single Judge, the appellant/Sarpanch ought not to be deprived of jurisdiction to challenge the no confidence motion on other grounds raised by her before the District

Collector.

4. In the result, this writ appeal is allowed in part, modifying the impugned order of the learned Single Judge and directing that as a consequence of that order, the proceedings will stand remitted to the District Collector to decide on other issues raised by the Sarpanch in the reference. It is clarified that such consideration shall be confined to issues which have already been raised and not to any factual issue which may be raised hereinafter. The parties are directed to mark appearance in the office of the District Collector on 24.10.2017 at 11.30 AM so that the District Collector can fix the date of hearing and intimate the parties accordingly. In such event the District Collector will not to issue any fresh notice of hearing.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Arvind Singh Chandel)
Judge