

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 13.07.2017****Delivered on 21.07.2017****Writ Appeal No. 227 of 2017**

1. Smt. Parwati Lahre W/o Premshankar Lahre, Aged About 30 Years R/o Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station And Post Pamgarh, District Janjgir Champa (Chhattisgarh).
2. Premshankar Lahre, S/o. Kondaram Lahre, Aged About 28 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station & Post Pamgarh, District Janjgir Champa (Chhattisgarh).

---- Appellants**Versus**

1. The Collector, Janjgir Champa District Janjgir Champa (Chhattisgarh).
2. Sub Divisional Officer/ Prescribed Officer, Pamgarh (Chu) Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, District Janjgir Champa (Chhattisgarh)
3. Tahsildar/ Presiding Officer, Tahsil Pamgarh (Panchayat Meeting), Gram Panchayat Mudpar, Janpad Panchayat Pamgarh (Chu), District Janjgir Champa (Chhattisgarh)
4. Jagdish Yadaw S/o Budhram Yadaw, Aged About 45 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station & Post Pamgarh, District Janjgir Champa (Chhattisgarh).
5. Sonaram Mahipal S/o. Nabheram Mahipal, Aged About 35 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station Pamgarh, Post Rasota, District Janjgir Champa (Chhattisgarh).
6. Kevra Patel, S/o. Dilip Kumar Patel, Aged About 32 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station Pamgarh, Post Rasota, District Janjgir Champa (Chhattisgarh).
7. Nahar Bai Jangde, W/o. Dujram Jangde, Aged About 45 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station & Post Pamgarh, District Janjgir Champa (Chhattisgarh).
8. Upendra Kumar Ratnakar, S/o. Jayant Ratnakar, Aged About 48 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station Pamgarh, Post

Rasota, District Janjgir Champa (Chhattisgarh).

9. Ashwani Kumar Kurrey, S/o. Reshulal Kurrey, Aged About 40 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station Pamgarh, Post Rasota, District Janjgir Champa (Chhattisgarh).
10. Satrupa Ratnakar, W/o. Heeralal Ratnakar, Aged About 32 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station Pamgarh, Post Rasota, District Janjgir Champa (Chhattisgarh).
11. Sukrita Lahre, W/o. Babulal Lahre, Aged About 32 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station Pamgarh, Post Rasota, District Janjgir Champa (Chhattisgarh).
12. Manchitra Patel, S/o. Baniya Patel, Aged About 45 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station Pamgarh, Post Rasota, District Janjgir Champa (Chhattisgarh).
13. Pinki Devi Lahre, W/o. Dev Kumar Lahre, Aged About 28 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station & Post Pamgarh, District Janjgir Champa (Chhattisgarh).
14. Manjulata, W/o. Ramesh Kumar, Aged About 24 Years R/o. Gram Panchayat Mudpar, Janpad Panchayat Pamgarh, Police Station & Post Pamgarh, District Janjgir Champa (Chhattisgarh).

---- Respondents

For Appellants	:	Mr. Lalit Jangde, Advocate
For Respondent -State	:	Mr. R.K. Gupta, Deputy Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

C.A.V. JUDGMENT

Per Sharad Kumar Gupta, Judge

1. In this writ appeal, the challenge levied is to the judgment dated 07.04.2017 passed by the learned Single Judge of this Court in Writ Petition (C) No. 2127 of 2016, whereby the said writ petition was allowed.

2. Appellant No.1 is the Sarpanch and the Appellant No.2 is the Up-Sarpanch of Gram Panchayat, Mudpar, District Janjgir-Champa. The issue followed the following sequence of events; on 11-07-2016 no-confidence motion was carried on against them under the provision of Section 21(1) of the CG Panchayat Raj Adhiniyam 1993 (hereafter called as the "Adhiniyam"). On 15-07-2016 and 01-08-2016 the Collector, Janjgir-Champa passed the orders, marked as Annexure P1 and P2 respectively, whereby the effect and operation of the no-confidence motion was stayed, following which the said writ petition was filed by Respondent No.4 Jagdish Yadav and others, upon which the learned Single Judge of this Court has passed the judgment, marked as Annexure A-1, which nullifies the orders of the Collector Janjgir-Champa.
3. Shri Lalit Jangde, learned counsel for the Appellants advanced the arguments that under the provision of Section 21(4) of the Adhiniyam, the Collector exercises the power as of a Civil Court and had authority to grant interim relief while deciding the matter decisively, thus said orders of the Collector, Janjgir-Champa are justified.
4. Shri R.K Gupta Deputy Advocate General for the State urged that the moment no-confidence motion is passed against the Appellants, they cease to hold the office forthwith and therefore the Collector, Janjgir-Champa should not have stayed the effect and operation of the no-confidence motion.
5. We have gone deep down through the records.
6. It would be pertinent to go through the Section 21 of said Adhiniyam which is reproduced hereunder :-

“21.No-confidence motion against Sarpanch and Up-Sarpanch-

- (1) On a motion of no-confidence motion being passed by the Gram Panchayat by a resolution passed by majority of not less than three fourth of the panchas present and

voting and such majority is more than two third of the total number of Panchas constituting the Gram Panchayat for the time being ,the Sarpanch or Up-Sarpanch against whom such motion is passed, shall cease to hold forthwith.”

7. The expression “ceased” is not defined in the said Adhiniyam. Various dictionaries such as Oxford defines it as 'come or bring to an end', Black's Law Dictionary defines it as 'to stop, forfeit, suspend or bring to an end, to become extinct or to pass away.
8. In **Mahant Narayana Dessjivaru v. State of Andhra, Hyderabad and others, AIR 1959 SC 471**, Division Bench of Andhra Pradesh High court held that the word 'cease' means discontinue or put an end to.
9. In **Babubhai Muljibhai Patel Vs. Nandlal Khodidas Barot; 1974 (2) SCC 706**, Hon'ble Supreme Court has observed that the essential connotation of a no-confidence motion is that the party against whom such motion is passed has ceased to enjoy the confidence of the requisite majority of members.
10. In **Babulal Jain and others v. State of M.P and others; 1966 M.P.L.J 901** a Division Bench of M.P High Court held that the Collector has no power under section 323 of M.P Municipalities Act (hereinafter called as “Act”) to direct that motion of no-confidence passed under section 47 of the “Act” shall not take effect. A motion of no confidence passed under section 47 of the “Act” is neither an executory order nor an executory resolution of the council .It takes effect from the moment it is passed and the office of President or Vice-President, as the case may be, becomes vacant forthwith. In **Bansilal Motilal Vs. Collector, West Nimar; M.P.L.J 1975 NOC 3**, learned Division Bench of M.P High Court has laid down the judicial precedent that President of Janpad Panchayat ceases to hold the office with effect from the date immediately next after the date on which the resolution of motion of no-confidence was passed. In **Bal Krishna Patel Vs. Brijendra Patel; 1985**

M.P.L.J 332, learned Division Bench of M.P. High Court has pronounced the following judicial precedent: *It is the settled view of this court that if there is substantial compliance of Section 83 of the M.P Panchayats Act 1981 a motion cannot be defeated for technical reasons and it is undemocratic to keep a person on the post when he lost the majority.*

11. The High Court of Chhattisgarh having been constituted by virtue of the provisions of Section 21 of the M.P Reorganisation Act 2000, with effect from 01-11-2000, this High Court is exercising the same jurisdiction and administering the same laws which the M.P High Court had exercised immediately before 01-11-2000 in the territories now included in the State of Chhattisgarh and the law was so declared by pronouncement for the entire State which also comprised the areas under the jurisdiction of Chhattisgarh High Court. The judicial precedents laid down by the Madhya Pradesh High Court discussed in paragraph No. 10 above are binding upon this Court. We are also in complete agreement with the principles of law stated therein.
12. The Adhiniyam gives the power to elected persons to fulfill the expectations of feeble section of society and strengthens the democratic system of our country. Allowing a person against whom no confidence motion has been passed to remain in the office by taking recourse of interim order passed by the statutory authority would be against the democratic system because such person has lost the confidence of house and should not be kept in the post since that person has lost the support of the majority.
13. We also record the submission of learned Deputy Advocate General that on 13-07-2017 the reference matter which was pending before the Collector Janjgir-Champa has been disposed of on merits by order dated 03-07-2017 and hence this writ appeal may not continue to stand.

14. On the basis of the foregoing discussion, we fully agree with the impugned judgment passed by the learned Single Judge, which is based on sound principles of law and is in accordance with the spirit of provisions of Section 21(1) of the Adhiniyam.
15. On the aforesaid facts and circumstances, we conclude that there is no substantial issue which has been raised in this writ appeal calling for interference with the impugned judgment of the learned Single Judge.
16. Hence, this writ appeal is dismissed. Appellants shall bear their own costs and as well as the costs of the State.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE