

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.2178 of 2017

Gore Lal Yadav, S/o Shri Kumar Yadav, aged about 34 years,
Occupation Sarpanch of Village Panchayat Gidhpuri, Block Palari,
Police Station Palari, District Balodabazar-Bhatapara (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Panchayat and Rural Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)
2. Collector, District Balodabazar-Bhatapara (C.G.)
3. Sub Divisional Officer/Presiding Officer, Balodabazar, District Balodabazar-Bhatapara (C.G.)
4. Smt. Champa Bai Kannauje, Panch, Ward No.02,
5. Smt. Santoshi Bai Sahu, Panch, Ward No.03,
6. Smt. Jagwati Dhruv, Panch, Ward No.04,
7. Smt. Gomati Dhruv, Panch, Ward No.05,
8. Smt. Ful Bai Sahu, Panch, Ward No.06,
9. Smt. Rupa Bai Banjare, Panch, Ward No.06,
10. Smt. Chandrakala Sahu, Panch, Ward No.08,
11. Smt. Puniya Bai Manikpuri, Panch, Ward No.11,
12. Jeevan Lal Yadav, Panch, Ward No.12,
13. Budhra Ratre, Panch, Ward No.14,

No.4 to 13 are R/o Village Panchayat Gidhpuri, Block Palari, Police Station Palari, District Balodabazar-Bhatapara (C.G.)

---- Respondents

For Petitioner: Mrs. Hamida Siddiqui, Advocate.

For Respondents No.1 to 3 / State: -

Mr. Arun Sao, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

08/08/2017

1. The petitioner is elected Sarpanch of Gram Panchayat Gidhpuri. Against him, the motion of no confidence was moved before the Sub Divisional Officer (Revenue), Baloda Bazaar and by order dated 11-7-2017, the Sub Divisional Officer (Revenue) fixed the meeting of no confidence motion on 26-7-2017 and appointed Tahsildar, Sandi as Presiding Officer, but before the meeting of no confidence could be held, on 25-7-2017, the Sub Divisional Officer (Revenue) adjourned the date of hearing for 10-8-2017. Questioning the order/notice dated 25-7-2017 adjourning the date of hearing of no confidence to 10-8-2017, this writ petition has been preferred on the ground that there is violation of Rule 3(3) of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 and therefore, as it is beyond 15 days, it is liable to be set aside.
2. On instructions, learned State counsel would submit that the meeting was convened on 26-7-2017, but the Presiding Officer fell ill and, therefore, the meeting has been adjourned for 10-8-2017 and as such, it is adjourned date of hearing and therefore, the notice dated 25-7-2017 is strictly in accordance with law and no interference is required.
3. I have heard learned counsel for the parties.
4. It is not in dispute that originally, the date was fixed for considering the no confidence on 26-7-2017, but as informed by the State counsel, on the request of the Presiding Officer on account of her

illness, the matter was adjourned for 10-8-2017.

5. In the matter of **Muku Bai v. State of M.P. and others**¹, a Division Bench of the M.P. High Court has held that meeting fixed for no confidence can be adjourned and observed as under in paragraph 10: -

“10. The next question that arises for consideration is whether the meeting fixed for no confidence motion can be adjourned or not. We have already quoted Section 21 of the Act of 1994. We have also quoted section 44 of the said Act and the rules framed thereunder. If the meeting of no confidence motion has been convened then can it be adjourned or not. Section 21 of the M.P. General Clauses Act, 1957, which is relevant for our purposes, reads as under:

“S. 21. Power to make, to include, power to add, to amend, vary or rescind orders, etc. — Where, by any Madhya Pradesh Act, a power to issue notification, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanctions and conditions, if any, to add to amend, vary or rescind any notifications, orders, rules, or bylaws so issued.”

Therefore, invoking section 21 of the Act of 1957, which enables the authority which passes the orders can revoke, amend, rescind; therefore, the prescribed authority which fixes the date of no-confidence, can adjourn it also. As quoted above section 21 or section 44 of the Act or the rules framed thereunder, nowhere prohibit the prescribed authority to adjourn the meeting. Therefore, the meeting of no-confidence motion can be adjourned. It is not right to say that if the meeting has been once convened within the statutory period, then it cannot be adjourned, the Rule 3(3) will not bar it. If it is to be interpreted that if meeting of no confidence is convened within 15 days and on account of law and order problem or for other unavoidable reasons, the motion cannot be debated then the Bar of 15 days under Rule 3(3) will come in the way that the meeting cannot be convened that will amount to shifting the democratic process. Therefore, we hold that under Rule 3(3), the convening of meeting within 15 days is must, it is a mandatory and if the meeting which is convened within 15 days could not proceed because of

1 1998(2) M.P.L.J. 661

the reason beyond control of the prescribed authority, it can be adjourned and the bar of Rule 3(3) will not come in the way.”

6. Since the meeting convened has already been adjourned finding sufficient cause, which can be competently adjourned in view of the law laid down by the M.P. High Court in **Muku Bai** (supra), it cannot be held that there is violation of Rule 3(3) of the aforesaid Rules of 1994. I do not find any reason to interfere. The writ petition deserves to be and is accordingly, dismissed, however, that will not bar the petitioner to speak in the motion and to oppose the no confidence motion. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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