

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.2137 of 2017**

(Arising out of judgment/order dated 20.7.2017 in Appeal Case No. 12/A-89(6)/2016-17 of the learned Additional Collector, Bilaspur)

- 1.** Shri Ramcharan Sahu S/o Shri Ramdayal Sahu, Aged About 33 Years Panch Ward No.4, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
- 2.** Smt. Anjani Sahu W/o Shri Dinesh Sahu, Panch Ward No.6, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
- 3.** Shri Rathram Sahu S/o Shri Santosh Kumar Sahu, Panch Ward No.1, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
- 4.** Smt. Kharun Nisha W/o Sheikh Ramajanudin, Panch Ward No.3, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
- 5.** Smt. Jahida Begum W/o Mohamed Gulshar, Panch Ward No.5, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
- 6.** Shri Rajesh Sahu S/o Shri Jeevanlal Sahu, Panch Ward No.7, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
- 7.** Smt. Kejanbai W/o Shri Rameshwar Sidar, Panch Ward No.8, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
- 8.** Smt. Hajara B W/o Sheikh Yakub, Panch Ward No.9, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village

Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh

9. Smt. Nageshwari Sahu W/o Shri Ramawtar Sahu, Panch Ward No.10, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
10. Smt. Panch Kunwar W/o Shri Chedilal Sahu, Panch Ward No.11, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
11. Shri Dilip Kumar Suryavanshi S/o Shri Girdharilal Suryavanshi, Panch Ward No.12, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
12. Smt. Santoshi Bai W/o Shri Devishankar, Panch Ward No.13, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
13. Shri Manoj Kumar Laskara S/o Shri Saukhilal Laskara, Panch Ward No.14, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh
14. Shri Choleshawar Prasad Sahu S/o Shri Jhaduram Sahu, Panch Ward No.15, Panch Of Gram Panchayat Jhalmala, Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, R/o Village Jhalmala Post Seepat, Thana Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh

-----Petitioners

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Panchayat, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. The Additional Collector, Bilaspur Chhattisgarh
3. Sub Divisional Officer (Revenue)-Cum-Prescribed Authority (Panchayat) Masturi, District Bilaspur, Chhattisgarh

4. Additional Tahsildar, Masturi, District- Bilaspur, Chhattisgarh

5. Shri Rajendra Sahu (Alias Raju) S/o Shri Janakram Sahu, Aged About 36 Years Sarpanch Gram Panchayat Jhalmala, Tehsil Masturi, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioners	:	Dr.N.K.Shukla, Senior Advocate with Mr.Vikram Sharma, Advocate
For Res.No.1 to 4	:	Mr.P.K.Bhaduri, G.A.
For Respondent No.5	:	Mr.Suresh Tandon, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

22/08/2017

1. Invoking jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner herein calls in question legality, validity and correctness of the order dated 20.7.2017 (Annexure P/6) by which respondent No.2/Additional Collector, Bilaspur has stayed the effect and operation of the resolution carrying out 'No Confidence Motion'.

2. Dr.N.K.Shukla, learned Senior Counsel along with Mr.Vikram Sharma, learned counsel appearing for the petitioners, would submit that once the 'No Confidence Motion' is carrying out in terms of Section 21(3) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (hereinafter called as 'Act of 1993'), it cannot be stayed by learned Additional Collector while entertaining the dispute under Section 21(4) of the Act of 1993, therefore, the impugned

order deserves to be set aside.

3. On the other hand, learned counsel for respondent No.5 would submit that the order passed by the Additional Collector is strictly in accordance with law.
4. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. The question as to whether learned competent authority can stay the effect and operation of the resolution carrying out 'No Confidence Motion' is no longer res-integra and stands decided conclusively by the decision of this Court in the matter of **Chetan Kurre Vs. State of Chhattisgarh**¹, in which this Court held as under:-

“16. Interpreting the word 'cease, the Division Bench of the Andhra Pradesh High Court in the matter of Mahant Narayana Dessjivaru Vs. State of Andhra, Hyderabad and Others {AIR 1959 AP 471} has held that the word 'cease' means discontinue or put an end to. It means that the scheme and the Sanad were no longer operative and the rights, if any, accruing therefrom are extinguished. There is no scope for importing any notion of suspension into that expression. Its only import is that they are discontinued once and for all.

17. Interpreting the word 'ceased' occurring in Section 13 (2)(v) of the East Punjab Urban Rent Restriction Act, a Single Bench of the Punjab and Haryana High Court in the matter of Sat Parkash, etc.Vs. Shiv Lal {AIR 1991 Punjab

¹ AIR 2017 Chhattisgarh 100

and Haryana 199} has held in para-12 thus:-

“XXXX XXXX XXXX

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The expression “ceased” is not defined in the Act. In the Law Lexicon by Justice T.P. Mukherjee, the word “cease” means “to discontinue or put an end to”. In Stroud's Judicial Dictionary by John S. James, the term “cease” is stated to apply to the case where the entire thing has ceased to be. Its only import is that the tenancy has been put to an end once for all. The Legislature in its wisdom has allowed the landlord to seek eviction of the tenant on the ground that the latter had ceased to occupy the premises continuously for a period of four months without reasonable cause. The landlord has to prove that the tenant by his conduct has brought the tenancy to an end and with that intention had discontinued the occupation of the demised premises.

25. In view of the binding nature of law declared by the Division Bench of the M.P. High Court prior to 1.11.2000, this Court would follow the earlier Division Bench decisions to hold that the moment motion of no confidence is carried against Sarpanch or Up-Sarpanch, as the case may be, he ceased to hold the office forthwith and nothing remains for the Collector to stay the effect and operation of carrying of no confidence motion.”

- 6.** In view of that, I am of the considered opinion that that learned competent authority has no jurisdiction to stay the effect and operation of the order carrying out 'No Confidence Motion'. Accordingly, the impugned order dated 20.7.2017 (Annexure P/6) passed by respondent No.2/Additional Collector, Bilaspur is hereby set aside. However, the Competent Authority under Section 21(4) of

the Act of 1993 is directed to dispose of the dispute within a period of one month from the date of receipt/production of copy of this order.

7. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-