

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1376 of 2016

- Smt. Rukmani Uikey W/o H.L. Uikey, Aged About 39 Years R/o Village Telguda, Gram Panchayat Bhilai, Police Station Charama, District : Kanker Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Panchayat Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. District Collector, Kanker, District Kanker Chhattisgarh.
3. Prescribed Authority (Under Panchayat Act 1993), Kanker District : Kanker Chhattisgarh.
4. Yogeshwar Sinha S/o Late Shri Rameshwar Sinha, Aged About 35 Years R/o School Para, Tansi, Ward No. 9, Tahsil Charama, District Kanker (Chhattisgarh)
5. Chintaram Markam S/o Shri Bindalram, Aged About 35 Years R/o Telguda, Ward No. 16, Tahsil Charama, District Kanker (Chhattisgarh)
6. Lakhanlal S/o Shri Hinchharam, Aged About 52 Years R/o Bhilai Ward No. 03, Tahsil Charama, District Kanker (Chhattisgarh)
7. Jitendra Kumar Matiyara, S/o Shri Mahesh Kumar Matiyara, Aged About 28 Years R/o Telguda, Ward No. 12, Tahsil Charama, District Kanker (Chhattisgarh)
8. Krishna Kumar Burman, S/o Late Shri Dukharam Burman, Aged About 41 Years R/o Telguda, Ward No. 13, Tahsil Charama, District Kanker (Chhattisgarh)
9. Maniram S/o Shri Sunhar Lal, Aged About 50 Years R/o Telguda, Ward No. 18, Tahsil Charama, District Kanker (Chhattisgarh)

---- Respondent

For Petitioner : Shri Sunil Otwani, Advocate.
For Respondent/State : Shri Ashish Surana, Panel Lawyer.
For Respondents 4 to 9 : Shri Prateek Sharma, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/03/2017

1. The petitioner is the Sarpanch of Gram Panchayat, Bhilai, District Kanker. Some of the Panchas moved motion of no confidence against the petitioner on 5.5.2016 which was held to be not in accordance with law, therefore, fresh application was moved by them on 17.5.2016 on which the Prescribed Authority initiated action on 18.5.2016 to fix the date for convening meeting of the Gram Panchayat for consideration of the motion of no confidence and the appointment of Specified Officer.
2. The present Writ Petition has been preferred to challenge the meeting fixed for 2.6.2016 on the ground that the same has been fixed after more than 15 days from the date of service of notice which is in violation of Rule 3 (3) of the C.G. Panchayat (Gram Panchayat Ke Sarpanch Tatha Up Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994.
3. Learned counsel for the petitioner would refer to the law laid down by the Division Bench of the M.P. High Court in the matter of **Muku Bai**

Vs. State of Madhya Pradesh {1998 (2) MPLJ 661}.

4. Shri Ashish Surana, learned State Counsel and Shri Prateek Sharma, learned counsel for respondents 4 to 9 would contend that since no meeting could take place on 2.6.2016 on account of interim order passed by this Court, in any case, a fresh date is required to be fixed. Therefore, the present writ petition may be disposed of reserving liberty in favour of the Panchas to move afresh in accordance with law.
5. In view of the settled legal proposition in the matter of **Muku Bai** (Supra), the meeting fixed on 2.6.2016 appears to have been fixed after more than 15 days from the date of receipt of notice of motion of no confidence by the Prescribed Authority.
6. In view of the above, the Writ Petition is disposed of with an observation that the Prescribed Authority shall not proceed to hold any meeting in pursuance of the notice of no confidence motion submitted on 17th May, 2016, however, the Panchas would be at liberty to move fresh motion of no confidence, if they so desire and when such notice is served on the Prescribed Authority, the bar of one year shall not attract.

Sd/-
Judge
(Prashant Kumar Mishra)