

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 157 of 2017**

Smt. Seema Dahariya W/o Bhoj Lal Aged About 31 Years Ex Sarpanch Of Gram Panchayat Pratappur, Janpad Panchayat, Pandariya, District Kabirdham, Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Panchayat & Rural Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. Collector, District Kabirdham, Chhattisgarh
3. Sub Divisional Officer (Revenue) & Prescribed Authority, Pandariya, District Kabirdham, Chhattisgarh
4. Chief Executive Officer, Janpad Panchayat Pandariya, District Kabirdham, Chhattisgarh
5. Tahsildar, Tahsil Pandariya, District Kabirdham, Chhattisgarh
6. Manisha, Upsarpanch, Ward No. 13.
7. Kusum Bai Panch Of Ward No. 06,.
8. Sakun Bai, Panch Of Ward No. 05
9. Tuleshwar, Panch Of Ward No. 03
10. Vishnu Jangade, Panch Of Ward No. 11.
11. Khelan Ram, Panch Of Ward No. 07.
12. Ram Kumar Banjara, Panch Of Ward No. 09.
13. Lok Kumar, Panch Of Ward No. 01.
14. Rupdas, Panch Of Ward No. 02.
15. Dinesh Bhardwaj, Panch Of Ward No. 04.
16. Kumari Bai Mathur, Panch Of Ward No. 08.
17. Mongra Bai Kurre, Panch Of Ward No. 12.
18. Raj Kumar Bhaskar, Panch Of Ward No. 15.
19. Kera Bai Sonwalkar, Panch Of Ward No. 16.
20. Smt. Mohan Bai W/o Dhannu Lal Panch Of Ward No. 10.
21. Smt. Laxmi W/o Dinesh Panch Of Ward No. 14.

No. 6 is Up Sarpanch and No. 7 to 21 are Panchs of Gram Panchayat Pratappur, District Kabirdham, Chhattisgarh

---- Respondents

For Appellant	: Shri K.S.Kurre, Advocate.
For Respondent/State	: Shri Y.S.Thakur, Additional Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P. Sam Koshy, Judge.

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

28/04/2017

1. IA No. 1 of 2017, has been filed to condone delay of 18 days in filing this appeal. For the reasons stated in the application, delay is condoned.
2. We have heard learned counsel for the Appellant and the learned Additional Advocate General.
3. This appeal is against the decision of the learned Single Judge refusing to interfere with the result of the no-confidence motion which has been upheld by the statutory authority under the Chhattisgarh Panchayat Raj Adhiniyam, 1993.
4. The learned counsel for the Appellant argued that the notice of the no confidence motion was not served and the no confidence motion was carried without any opportunity being given to the Sarpanch against whom the no-confidence motion was moved.
5. Adverting to paragraph 4 of the judgment of the learned Single Judge, it can be seen that the only point raised before the learned Single Judge was that on the date and time when the agenda was considered by the Gram Panchayat, election was carried by show of hands and not by secret ballot. What it means is that the no confidence motion was allegedly put to oath by show of hands and not by secret ballot.
6. The learned Single Judge after adverting to the decision of this Court in *Smt. Amravati v. State of Chhattisgarh* (AIR 2015 CG 18) dilated on the facts on the basis of the records and held that the contention was unfounded. The learned Single Judge, as is discernible from paragraph 8 of the impugned judgment, has gone through the entire text of the resolution. The contents of the resolution which

reflects the manner of the procedure carried out is appreciated and recorded by the learned Single Judge in paragraph 9 of the impugned judgment. In that factual scenario, we do not see any infirmity or any jurisdictional error with the judgment. The Additional Advocate General points out that the plea now sought to be raised was not urged even before the statutory revisional authority and even when the Appellant reached before the learned Single Judge by instituting the writ petition. We do not see any ground to consider any question of fact allegedly to be raised for the first time in this appeal.

7. For the aforesaid reasons, the writ appeal fails and the same is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE