

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 93 of 2018**

Smt. Sarika Gupta W/o Shri Surendra Gupta Aged About 38 Years Sarpanch Gram Panchayat Akhrar , R/o Village Akhrar , Tehsil And Police Station Lormi Civil And Revenue District Mugeli Chhattisgarh.

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Versus

1. State Of Chhattisgarh Through Secretary Panchayat Department Mantralaya Naya Raipur District Raipur Chhattisgarh.
2. Additional Commissioner, Bilaspur District Bilaspur Chhattisgarh.
3. Collector, Mungeli District Mungeli Chhattisgarh.
4. Competent Authority, Sub - Divisional Officer (Revenue) Lormi District Mungeli Chhattisgarh.
5. Presiding Officer / Tehsildar Lormi , Tehsil - Lormi , District Mungeli Chhattisgarh.
6. Smt. Sahodra Bai Maravi, W/o Shri Ramkumar Maravi Aged About 48 Years Panch Ward No. 01 Gram Panchayat Akhrar
7. Smt. Bhaskar W/o Shri Kalam Bhaskar Aged About 38 Years Panch Ward No. 02 , Gram Panchayat Akhrar R/o Village Akhrar
8. Shri Panchram Khande S/o Shri Hira Khande Aged About 36 Years Panch Ward No. 03 , Gram Panchayat Akhrar
9. Shri Puniram Kumbhkar S/o Shri Durjan Kumbhkar Aged About 45 Years Panch Ward No. 04 , Gram Panchayat Akhrar
10. Smt. Sehbin Bai Bhaskar W/o Shri Budhwaram Bhaskar Aged About 60 Years Panch Ward No. 05 , Gram Panchayat Akhrar
11. Shri Mangal Singh Armo S/o Shri Amar Singh Armo Aged About 40 Years Panch Ward No. 06 , Gram Panchayat Akhrar

- 12.Smt. Sehbin Yadav W/o Shri Santosh Yadav Aged About 35 Years Panch Ward No. 08 , Gram Panchayat Akhrar
- 13.Shri Jhangluram Yadav S/o Shri Awadh Ram Aged About 45 Years Panch Ward No. 09 , Gram Panchayat Akhrar
- 14.Smt. Kumari Jaiswal W/o Shri Ashok Jaiswal Aged About 40 Years Panch Ward No. 11 , Gram Panchayat Akhrar
- 15.Shri Shatruhan Prasad Jaiswal S/o Shri Shobharam Jaiswal Aged About 36 Years Panch Ward No. 12 , Gram Panchayat Akhrar
- 16.Shri Fulchand Jaiswal S/o Shri Kunwar Singh Aged About 40 Years Panch Ward No. 13 , Gram Panchayat Akhrar
- 17.Smt. Sevati Bai Patle W/o Shri Ramratan Patle Aged About 55 Years Panch Ward No. 14 , Gram Panchayat Akhrar
- 18.Shri Hajari Lal Khande s/o Shri Nanka Khande Aged About 45 Years Panch Ward No. 15 , Gram Panchayat Akhrar
- 19.Smt. Sukala Bai Patle , W/o Shri Keshar Prasad Patle Aged About 62 Years Panch Ward No. 16 , Gram Panchayat Akhrar
- 20.Smt. Priti Kumbhkar W/o Shri Prakash Kumbhkar Aged About 25 Years Panch Ward No. 18 , Gram Panchayat Akhrar
- 21.Smt. Kamla Bai Patel W/o Shri Ramprakash Patel Aged About 45 Years Panch Ward No. 20 , Gram Panchayat Akhrar
- 22.Manoj Patre S/o Fulchand Patre , Panch Ward No. 07 , Gram Panchayat Akhrar R/o Village Akhrar
- 23.Sanju Kumbhkar S/o Shri Kamal Kumbhkar , Panch Ward No. 10 , Gram Panchayat Akhrar R/o Village Akhrar
- 24.Mahesh Tiwari S/o Shri Radheshayam Tiwari , Panch Ward No. 17 , Gram Panchayat Akhrar R/o Village Akhrar
- 25.Smt. Prasuti Bai Yadav W/o Shri Raju Yadav , Panch Ward No. 19 , Gram Panchayat Akhrar,

Respondents No. 6 to 25 all are R/o Village Akhrar, Tehsil And Police Station Lormi , District Mungeli Chhattisgarh.

---- Respondents

For Appellant	:	Shri K.A. Ansari, Senior Advocate with Shri Kripesh Kela, Advocate
For State	:	Shri R.K. Gupta, Deputy Advocate General
For Respondents 6 to 21	:	Shri Prateek Sharma, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Sharad Kumar Gupta, Judge

Judgment On Board

Per Thottathil B. Radhakrishnan, Chief Justice

23/02/2018

1. We have heard learned Senior Counsel for the appellant, the learned Deputy Advocate General for the State and the learned counsel for the writ petitioner/respondents No. 6 to 21.
2. The writ appellant was elected as the Sarpanch of a Gram Panchayat. A no confidence motion was moved against her. That was carried. She invoked Section 21 (4) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short, '*Adhiniyam*') before the jurisdictional Collector. The Collector refused to interfere. Appellant preferred an appeal before the Commissioner, stated to be in terms of Section 91 of the Act read with Rule 5 of the Chhattisgarh Panchayat (Appeals & Revision) Rules 1995 (for short, '*Rules*'). The Commissioner issued an order of stay of the effect and operation of the no confidence motion. That order was issued apparently under Rule 8 of the aforesaid Rules. At the instance of the contesting respondents the learned Single Judge set-aside that stay order. Hence this appeal.
3. The learned Senior Counsel for the appellant argued that the judicial precedent referred to by the learned Single Judge does

not deal with the power of the Revisional Authority or the Appellate Authority. According to him, that precedent deals only with the power of the Collector to grant stay in a proceeding under Section 21 (4) of the Adhiniyam. The learned counsel for the contesting respondents supported the decision of the learned Single Judge.

4. Sub-section(4) of Section 21 of the Act provides an opportunity for a person who desires to challenge the validity of the motion of no confidence. Therefore, the subject matter of a proceeding under Section 21(4) of the Adhiniyam before the Collector is limited to the manner in which the motion was moved and carried out. It does not relate to the quality or content of the democratic decision of upholding or rejecting the no confidence motion. While the appellant has the case that she was not given the opportunity to exercise her right to speak at the proceedings in the meeting, it is pointed out by the learned counsel for the contesting respondents that the resolution on the motion of the no confidence, records the fact that the appellant had spoken in the meeting. Be that as it may, as already noticed, sub-Section (4) of Section 21 of the Adhiniyam does not empower the Collector to sit in judgment on the correctness of the result of the no confidence motion, as is handed down by the democratic Local Self Government Institution, on the floor of which the no confidence motion is moved. Adverting to Section 91 of the Act, it can be seen that the appeal or revision provided thereby are against orders or proceedings of a Panchayat and other authorities. Rule 5 of the Rules provide revision of orders and

proceedings. The result of a no confidence motion cannot be brought to a statutory adjudication before any of the statutory authorities under the Act. The limited area of any adjudication is confined to what is provided sub-Section (4) of Section 21 of the Adhiniyam; that is to say, the modality of the procedure carried out to move and put the motion of no confidence to consideration.

5. In the aforesaid view of the matter, we do not find any legal infirmity or jurisdictional error in the learned Single Judge having vacated the order of stay granted by the Appellate Authority. We preserve what has been granted to the appellant through para 6 of impugned order of the learned Single Judge which enjoins that the Additional Commissioner is free to decide the appeal/representation, on merits in accordance with law. This writ appeal fails.
6. We may however, indicate that the revisional authorities or appellate Authorities cannot keep such matters on their table indefinitely, thereby injuring the democratic rights of participants in such offices. Therefore, the Additional Commissioner will expedite the final hearing and disposal of the matter pending before that Officer, in accordance with law.
7. Subject to what is stated in paragraphs 5 and 6 above, this writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge