

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 639 of 2018**

Angad Kumar Khatkar S/o S/o Shri Ganesh Ram Khatkar, Aged About 45 Years
Sarpanch Of Gram Panchayat- Bamhanpuri, R/o Village- Bamhanpuri Janpad
Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara,
Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Panchayat And Samaj Of Panchayat And Samaj Seva, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Additional Commissioner, Raipur Division, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Collector, Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
4. Sub- Divisional Officer (Revenue), Bilaigarh, Prescribed Authority, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
5. Miss. Rajni Bhagat, Tahsildar, Bilaigarh, (Presiding Officer Of No Confidence Motion), District Balodabazar- Bhatapara- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
6. Chief Executive Officer, Janpad Panchayat Bilaigarh, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
7. Gram Panchayat- Bamhanpuri, Through Its Secretary, District- Balodabazar- Bhatapara, Chhattisgarh. R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
8. Smt. Tarabai W/o Shri Dharmendra Sahu Aged About 28 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
9. Smt. Geeta Bai, W/o Shri Mayaram Sahu, Aged About 56 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
10. Dharmendra Singh S/o Rameshwar, Aged About 45 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar-

Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

11. Narmada Prasad S/o Shri Manbodh Yadav, Aged About 40 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
12. Bhuneshwar, S/o Shri Manbodh Yadav Aged About 55 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
13. Tekram S/o Shri Bhudram Nirala Aged About 32 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
14. Smt. Chandrika Lahre W/o Shri Tajram Lahre Aged About 55 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
15. Smt. Dhaneshwari Sahu W/o Shri Kamal Kishore Sahu Aged About 35 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
16. Smt. Geeta Nirala, W/o Shri Harsichandra Nirala Aged About 26 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
17. Smt. Ishwari Sahu W/o Shri Mohar Sai Aged About 27 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
18. Smt. Kanti Khute W/o Shri Bhugehswar Aged About 27 Years Panch, R/o Village- Bamhanpuri, Janpad Panchayat- Bilaigarh, Thana- Sarsiwa, District- Balodabazar- Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondents

For Petitioners : Shri Vivek Kumar Agrawal, Advocate.
For State : Shri Arun Sao, Deputy Advocate General.

Order On Board

02/04/2018

(1) The petitioner was elected Sarpanch of Gram Panchayat Bamhanpuri, Tahsil – Bilaigarh, District Balodabazar. No Confidence Motion was moved against the petitioner by the panchas on 15.05.2017, on which notice was dispatched on 16.05.2017 and the

meeting of no confidence motion was held on 26.05.2017. No confidence motion was passed against the petitioner with majority, which was challenged by the petitioner before the Collector under Section 21(4) of the Chhattisgarh Panchayati Raj Adhiniyam, 1993 (hereinafter called as "Act of 1993") and that was rejected. The petitioner preferred revision thereagainst before the Commissioner, that was also remained unsuccessfully, against which instant writ petition has been filed questioning the same.

(2) Learned counsel appearing for the petitioner would submit that notice was not served to the petitioner, 7 days prior to the date of meeting and, therefore, no confidence motion against the petitioner is bad and unsustainable in law. He would also submit that the petitioner was not allowed to speak in the proceedings of no confidence motion.

(3) On the other hand, learned counsel for the State would support the impugned orders.

(4) I have heard learned counsel appearing for the parties and perused the impugned orders with utmost circumspection.

(5) No Confidence Motion was moved against the petitioner by the panchas on 15.05.2017, on which notice was dispatched on 16.05.2017 and ultimately the meeting of no confidence motion was held on 26.05.2017.

(6) The Full Bench of Madhya Pradesh High Court in matter of **Smt. Bhulin Dewangan Vs. State of M.P. and others**¹ approved the ratio laid down in **Muku Bai V. State of M.P. and others**² and held as under :-

"8. The second part of sub-rule (3) of Rule 3 mandates that the prescribed authority after fixing date, time and place of the meeting within the prescribed period not later than 15 days as laid down in the first part of the Rule, shall cause dispatch of notice of such meeting to every member of Panchayat 7 days before the meeting. The said latter part of sub-rule (3) of Rule 3 of 1994 rules is mandatory as intimation of date, time and place of meeting to every member is essential to ensure his presence, if he so desires, in the meeting to be held on such vital issue of passing of no-confidence motion.

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¹ 2000 (4) MPHT 69

² 1998 (2) MPLJ 661

17. Consequent to the discussion aforesaid, we respectfully approve the Division Bench decision in *Muku Bai Vs. State of M.P.* [1998 (2) MPLJ 661], *Mahesh Pd. Choudhary Vs. State of M.P.* [1997 (2) JIJ 397]. We also find no conflict *inter se* in the decisions in *Srinarayan Tiwari Vs. State of M.P.* [1998 (1) JIJ 124] and *Sharda Bai Khatik Vs. State of M.P.* [1998 (1) JIJ 399] (both decided by Hon'ble C.K. Prasad, J.).

(7) In view of above, date of dispatch of notice 7 days prior to the date of meeting is material and not the date of receipt of the notice for compliance of Rules and, therefore, I do not find any merit in the first ground raised in the petition.

(8) So far as second ground is concerned, a perusal of the impugned proceeding of no confidence motion dated 26.05.2017 would show that the petitioner was allowed to speak and he sought one more opportunity to work as Sarpanch from the village panchas and, as such, he was allowed to speak in the proceeding of no confidence motion. Thus, I do not find any illegality in the order impugned passed by the Collector as affirmed by the Commissioner in the revision warranting interference by this Court under Article 226 of the Constitution of India.

(9) Accordingly, the writ petition being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-