

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1893 of 2018**

Smt. Dileshwari Bai W/o Jagdish Prasad Sahu, Aged About 55 Years, (Sarpanch-Village Panchayat Sarsiwa), R/o Village Sarsiwa, District Balodabazar- Bhatapara (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat, Mahanadi Bhawan, Mantralaya Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. The Collector, District Balodabazar- Bhatapara, Chhattisgarh.
3. Sub Divisional Officer, Bilaigarh, District Balodabazar- Bhatapara, Chhattisgarh.
4. Naib Tahsildar, Bilaigarh, District Balodabazar- Bhatapara, Chhattisgarh.
5. Bhavesh Kesharwani, S/o Pradeep Kesharwani, Aged About 35 Years Presently Up-Sarpanch, Village Panchayat Sarsiwa, District Balodabazar Bhatapara, Chhattisgarh.,
6. Smt. Bund Bai, W/o Palu Ram Aged About 60 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.
7. Smt. Puspa, W/o Manoj, Aged About 36 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.
8. Smt. Laxmin, W/o Shri Ram Lal Aged About 30 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.
9. Kundan, S/o Braj Kishore Aged About 32 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, (C.G.)
10. Smt. Rukhmani, W/o Dadu Lal, aged about 39 years, Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.
11. Smt. Lalita W/o Ramesh, Aged About 32 Years, Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.
12. Subhash Chandra, S/o Meghi Ram, aged about 39 years, Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara (C.G.)
13. Sadhu Ram S/o Son Say, Aged About 67 Years, Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara (C.G.)

14. Sushila W/o Santosh, Aged About 35 Years, Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara (C.G.)
15. Bhakla, S/o Kalash, Aged About 67 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, (C.G.)
16. Smt. Khik Bai, W/o Ram Kishan Aged About 59 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara (C.G.)
17. Smt. Kaleshwari W/o Sudama Aged About 34 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara (C.G.)
18. Smt. Dhaneshwari W/o Samme Lal, Aged About 29 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara (C.G.)
19. Bhupendra Kumar S/o Gayatri Kumar, aged about 38 years, Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.
20. Hemant S/o Alekh Aged About 35 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.
21. Vinod S/o Santosh Aged About 39 Years Presently Panch Village Panchayat Sarsiwa, District Balodabazar- Bhatapara, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Pawan Kesharwani, Advocate.
For Respondents No. 1 to 4/State	: Shri Arun Sao, Dy. Advocate General.
For Caveator	: Shri J.N. Nande, Advocate.

Order On Board

10/07/2018

1. Learned counsel appearing for the petitioner would submit that notice of no confidence motion issued against the petitioner and tabled for discussion on 11.07.2018 is bad and unsustainable in law as the notice issued under sub Rule 1 of Rule 3 of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (henceforth "Rules, 1994") is contrary to Rule 3(2) of the Rules, 1994 because the time and date of presenting the motion of no confidence motion has not

been mentioned in it and certificate issued by the Sub Divisional Officer (Revenue) does not bear that date and time of no confidence motion.

2. Per contra, counsel for the State and intervenor opposes the writ petition.

3. I have heard learned counsel appearing for the parties.

4. No confidence motion was presented on 29.06.2018 to the Sub Divisional Officer (R), Bilaigarh, who is competent authority for the said purpose. On that date the SDO (R), Bilaigarh, sought certain information from the Chief Executive Officer, Janpad Panchayat, Bilaigarh. Date of filing of no confidence motion is also mentioned in the order sheet dated 29.06.2018 as well as in the certificate issued by the Sub Divisional Officer (R) vide Annexure P-6. Non mentioning of the time is a procedural irregularity, that would not vitiate the no confidence motion itself.

5. So far as next submission raised by counsel for the petitioner that on 29.06.2018, all the cases were adjourned for 13th July, 2018, therefore, entertainment of no confidence motion by S.D.O. (R) is bad, is also not helpful to the petitioner as already fixed dated cases were adjourned to some other date but that will not bar the S.D.O. (R) to entertain the motion of no confidence submitted by the private respondents against the petitioner, as such, I do not find any merit in the instant writ petition warranting interference by this Court under Article 226 of the Constitution of India.

6. Consequently, the writ petition, being devoid of merit, is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

