

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2549 of 2018**

1. Smt. Neeta Dansena W/o Naresh Kumar Dansena Aged About 43 Years Sarpanch Village Panchayat Tarapur, R/o Village Tarapur, Tahsil And District Raigarh, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Commissioner Bilaspur Division Chhattisgarh, Bilaspur, District Bilaspur, Chhattisgarh.
3. Collector Raigarh, District Raigarh, Chhattisgarh.
4. Sub Divisional Officer Raigarh, District Raigarh, Chhattisgarh.
5. Nayab Tahsildar Raigarh, Tahsil And District Raigarh, Chhattisgarh.
6. Dilip Kumar Yadav S/o Sada Yadav Panch Ward No. 1
7. Smt. Barat Kunwar Sarthi W/o Runguram Sarthi Panch Ward No. 2
8. Santram Sidar S/o Budhu Sidar Pancha Ward No. 3
9. Smt. Lokeshwari Patel W/o Ashwari Kumar Patel Panch Ward No. 4
10. Smt. Yashoda Bai W/o Motilal Panch Ward No. 5
11. Smt. Buti Bai Sidar W/o Munudau Panch Ward No. 6
12. Nokheleshwar Raj Singh S/o Yashwant Raj Singh Panch Ward No. 7
13. Smt. Sangeeta Devi W/o Nokhleshwar Raj Singh Panch Ward No. 8
14. Bade Lal Nishad S/o Mehttar Nishad Panch Ward No. 9
15. Smt. Devmati Dansena W/o Chandrabhan Dansena Panch Ward No. 10

Respondents No.6 to 15 Office Of Village Panchayat Tarapur, Tahsil And District Raigarh, Chhattisgarh.

---- Respondent

For Petitioner	Shri Akhand Pratap Singh, Advocate
For Respondent/State	Shri Rajendra Tripathi, Panel Lawyer

Order On Board

By

Prashant Kumar Mishra, J.

17/09/2018

1. Petitioner is Sarpanch of Gram Panchayat Tarapur, Tahsil & District Raigarh. She has been removed from the office as a result of motion of no confidence having been carried against her by majority of votes in terms of the statutory prescription.
2. It is argued that Rule 5 (1) of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janapad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (for short 'the Rules, 1994') has not been followed inasmuch as after recording attendance of the members of Panchayat present at the meeting the petitioner was not allowed to speak. Even if the proceedings records that the petitioner was called upon to address the house the same was illusory because the petitioner was not made aware of the charges on which the motion of no confidence was brought.
3. Rule 5 of the Rules, 1994 requires that the Presiding Officer shall ask any of the signatories to the notice to move the motion and thereafter, the mover will speak on the motion and other

members, if they so desire, may also speak. The Presiding Officer shall thereafter call the members to vote.

4. It is settled law that the proceedings recorded by statutory authority cannot be questioned before any higher forum without there being any clinching proof. If the proceedings of the house recorded by the authorised officer vide Annexure – P/6 records that the petitioner was allowed to speak in the meeting, the same cannot be negated only on the oral submission made by the petitioner that such opportunity was not provided.
5. The grounds on which the no confidence motion was brought is clearly were mentioned in the document Annexure – P/3 which, according to the petitioner, is not in prescribed format.
6. A Gram Panchayat is usually constituted for one village where the headquarter of the Panchayat is situated and one or two dependant villages. It is, thus, a small area, therefore, it cannot be said that the Sarpanch, who has been elected by the voters of the area, was not aware of the reason for which a majority of the office bearers of the Gram Panchayat have lost confidence in her/ him. To say that the petitioner was not aware of the charges on which she was sought to be removed shows her apathy towards the affairs of the Gram Panchayat and the area as a whole. Moreover there appears no prejudice caused to the petitioner because majority of the Panchas have voted against her. In a democracy the will of the house, which reflects will of

the people, should be respected and unless any mandatory provision of the statute has been violated the motion of no confidence passed by majority against the sitting Sarpanch should not be interfered on mere *ipse dixit*.

7. Learned counsel appearing for the petitioner has placed reliance on the decision of the Gujarat High Court in **Suvarnaben Chetanbhai Raval v State of Gujarat** reported in **(2015) 1 GCD 593**, which deals with the provisions of the Gujarat Panchayats Act, 1993. In that case the Sarpanch was denied the audience, therefore, the Gujarat High Court held that the statutory right of the petitioner has been violated, however, in the case at hand, Annexure – P/6 would record that the Sarpanch was allowed to speak, therefore, if the petitioner did not avail the opportunity there is no violation of any statutory provision. Thus, the judgment rendered by the Gujarat High Court is distinguishable on facts.
8. In the result, the writ petition, being bereft of merit, is liable to be and is hereby dismissed at the admission stage itself.

Sd/-

Judge
Prashant Kumar Mishra

Gowri