

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 2 of 2019**

1. Smt. Pinky Shivraj Shah W/o Shri Shivraj Shah Aged About 41 Years, President, Janpad Panchayat Nagri, District- Dhamtari, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Indravati Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.
2. Collector Dhamtari, District- Dhamtari, Chhattisgarh.
3. Chief Executive Officer, Janpad Panchayat Nagri, District- Dhamtari, Chhattisgarh.
4. Additional Commissioner, Raipur Division, District- Raipur, Chhattisgarh.
5. Ramdayal Sahu S/o Phol Singh Sahu Aged About 52 Years, President, Village And Post Amali, District- Dhamtari, Chhattisgarh.
6. Siya Bai Sahu W/o Tukaram Sahu Aged About 50 Years Janpad Member, Village Saluani, Post Chhuhi, District- Dhamtari, Chhattisgarh.
7. Maheshwari Dhruv W/o Santram Dhruv, aged about 27 years, Janpad Member, Village And Post Chhuhi, District- Dhamtari, Chhattisgarh.
8. Sattubai Netam W/o Samar Singh Aged About 43 Years Janpad Member, Village Dokal, Post Keregaon, District- Dhamtari, Chhattisgarh.
9. Deepakjanu Netam S/o Januram Netam Aged About 35 Years, Janpad Member, Village Saraitola, Post Gattasilli, District- Dhamtari, Chhattisgarh.
10. Pingal Gota S/o Halal Khor Aged About 40 Years Janpad Member, Village Bijapur, Post Chanagaon, District- Dhamtari, Chhattisgarh.

11. Jageshwari Tekam D/o Chaituram Netam Aged About 27 Years, Janpad Member, Village Kauhabahra, Post Dugli, District- Dhamtari, Chhattisgarh.
12. Kaleshwari Markam W/o Rajesh Markam Aged About 30 Years, Janpad Member, Village Jhunjrakasa, Post Ghotgaon, District- Dhamtari, Chhattisgarh.
13. Ajay Dhruv S/o Amritlal Dhruv Aged About 29 Years, Janpad Member, Village Parsapani, Post Rajpur, District- Dhamtari, Chhattisgarh.
14. Mukesh Baghel S/o Niranjana Singh Baghel Aged About 44 Years, Janpad Member, Village And Post Dongardula, District- Dhamtari, Chhattisgarh.
15. Shivkumari Sai W/o Sukhram Rai Aged About 50 Years, Janpad Member, Village And Post Devpur, District- Dhamtari, Chhattisgarh.
16. Dashribai Kamar W/o Brijlal Kamar Aged About 41 Years Janpad Member, Village Sambalpur, Post Amali, District- Dhamtari, Chhattisgarh.
17. Atmaram Sori S/o Goverdhan Aged About 45 Years, Janpad Member, Village Amgaon, Post Ghurawad, District- Dhamtari, Chhattisgarh.
18. Hemlata Kailash Prajapati W/o Kailash Prajapati Aged About 45 Years, Janpad Member, Village And Post Belargaon, District- Dhamtari, Chhattisgarh.
19. Mahendra Kumar Netam S/o Kapil Netam Aged About 28 Years, Janpad Member, Village And Post Gadhdongri, District- Dhamtari, Chhattisgarh.
20. Dalganjan Markam S/o Late Shri Ramsingh Markam Aged About 52 Years, Janpad Member, Village Gadhdongri (Raiyat), Post Gadhdongri (Mal.), District- Dhamtari, Chhattisgarh.
21. Priti Yadu W/o Prakash Yadu Aged About 40 Years, Janpad Member, Village And Post Sihava, District- Dhamtari, Chhattisgarh.
22. Anjor Singh Nishad S/o Late Sonau Ram Aged About 58 Years, Janpad Member, Village And Post Sihava, District- Dhamtari, Chhattisgarh.

23. Tareshwari Sahu W/o Kamta Sahu Aged About 50 Years, Janpad Member, Village And Post Umargaon, District - Dhamtari, Chhattisgarh.
24. Ajit Verma S/o Mohan Verma, Aged About 50 Years, Janpad Member, Village And Post Sankra, District- Dhamtari, Chhattisgarh.
25. Umesh Kumar Dev S/o Manik Lal Dev, aged about 47 years, Janpad Member, Village Ratava, Post Podagaon, District- Dhamtari, Chhattisgarh.
26. Radhabai Samrath W/o Asatram Aged About 45 Years Janpad Member, Village Likhma, Post Ghutkel, District- Dhamtari, Chhattisgarh.
27. Ashok Som S/o Prafull Chand Som Aged About 60 Years, Janpad Member, Village Bilbhadar, Post Dongardula, District- Dhamtari, Chhattisgarh.
28. Rekhabai Netam W/o Baliram Netam Aged About 35 Years, Janpad Member, Village Belarbahra Post Mechka, District- Dhamtari, Chhattisgarh.

---- Respondent

WPC No. 4 of 2019

1. Ramdayal Sahu S/o Phool Singh Sahu Aged About 52 Years Vice President, Nagar Panchayat Nagri, Village And Post Amali, District Dhamtari, Chhattisgarh.

---- Petitioner

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3. Chief Executive Officer, Janpad Panchayat Nagri, District- Dhamtari, Chhattisgarh.
4. Additional Commissioner, Raipur Division, District- Raipur, Chhattisgarh.

5. Smt. Pinky Shivraj Shah W/o Shri Shivraj Shah Aged About 41 Years, President, Janpad Panchayat Nagri, District- Dhamtari, Chhattisgarh.
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22. Anjor Singh Nishad S/o Late Sonau Ram Aged About 58 Years, Janpad Member, Village And Post Sihava, District- Dhamtari, Chhattisgarh.
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28. Rekhabei Netam W/o Baliram Netam Aged About 35 Years, Janpad Member, Village Belarbahra Post Mechka, District- Dhamtari, Chhattisgarh.

----- Respondents

For Petitioners	Shri Y.S. Thakur, Advocate
For Respondent/State	Shri Alok Bakshi, Addl. Adv. General
For Private Respondents	Shri Awadh Tripathi & Shri Anmol Sharma, Advocates

Order On Board

By

Prashant Kumar Mishra, J.

20/03/2019

1. In these two writ petitions filed by the President and Vice President of Janpad Panchayat Nagri, District Dhamtari, the petitioners have called in question the proceedings of the motion of no confidence drawn by the Collector, Dhamtari and have sought quashment of the notice dated 24.12.2018 and the order dated 28.12.2018 convening the meeting of the Janpad Panchayat for considering the motion of no confidence brought against the petitioners.
2. Challenge is mainly on the ground that when the application was moved on 21.12.2018 the Collector issued a memo to the Chief Executive Officer Janpad Panchayat Nagri for verification of signatures of 20 members of the Janpad Panchayat who had submitted the motion. However, the Chief Executive Officer, in turn, issued a memo to the Vikas Vistar Adhikari, Janpad Panchayat Nagri for verification of signatures. Such delegation has been attacked as not permissible in law.

3. It is also argued that in the memo issued by the Collector on 24.12.2018, it is clearly mentioned that out of 20 members of Janpad Panchayat signatures of only 6 could be verified and the remaining 14 were not available in their residence, therefore, till this moment the required one third numbers of members desiring to bring no confidence motion were not verified, however, another report was submitted by the Chief Executive Officer on the same date to the effect that signatures have been tallied. Thereafter, the Collector wrote the second note sheet on the same date and on this occasion the Collector did not refer to the verification made by the Chief Executive Officer by tallying the signatures on the application from the signatures available in the register of the Janpad Panchayat. It is further argued that by not referring the memo of the Chief Executive Officer dated 24.12.2018 the Collector has, in fact, took a 'u' turn as there was no personal satisfaction either by the CEO or by the Collector about the signatures.
4. Based on the above facts and submissions, it is argued that Rule 3 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') requires personal satisfaction of the Collector which was neither proceeded nor

recorded till 28.12.2018, when the notice for convening the meeting was issued. Reliance is placed on the judgment rendered by the Single Judge of the High Court of Madhya Pradesh in **Smt. Satya Prakash Parsadia v State of M.P. and others¹**.

5. Per contra, learned Additional Advocate General and learned counsel appearing for the private respondents would submit that Rule 3 (3) of the Rules, 1994 requires personal satisfaction of the prescribed authority about the admissibility of the notice with reference to Section 28 (3) relating to Janapd Panchayat and not at the stage of moving such application, therefore, there is no legal defect in the proceedings by the Collector.
6. In **Smt. Satya Prakash Parsadia** (supra) the High Court of Madhya Pradesh was considering Section 47 of the M.P. Municipalities Act, 1961 in which Section 47 (2) provides that the Collector, after satisfying himself and verifying that the three-fourth of the Councilors specified in sub-section (1) have signed the proposal of recall shall send the proposal to the State Government and the State Government shall make a reference to the State Election Commission. Thus, in the said case the personal satisfaction of the Collector regarding verification of the signatures of three-fourth members is provided in the Rule itself and in the said statutory background it has been held that the Collector is required to satisfy himself about the signature of

¹ 2008 (3) MPHT 264

proposal by three-fourth of the Councilors. There is no such provision in the Rules at hand.

7. Rule 3 (1) of the Rules, 1994 provides that elected members of Janapad Panchayat desiring to move a motion of no confidence against the President or Vice-President of Janapad shall give a notice thereof and such notice shall be signed by not less than one third of the total number of elected members. This sub rule does not speak about necessity of personal satisfaction of the Collector as to whether the application is signed by three-fourth of the members. It is at the stage of sub-rule (3) of Rule 3 that the prescribed authority has been enjoined to satisfy himself about admissibility of the notice with reference to section 28 (3) in respect of Janapad Panchayat.
8. Section 28(3), in turn, provides that no confidence motion shall not lie against the President or Vice-President within one year from the date on which the President or Vice-President enter their respective office; six months preceding the date on which the term of office of the President or Vice-President, as the case may be, expires; and one year from the date on which previous motion of no confidence was rejected. This provision, therefore, does not require personal satisfaction of the Collector in respect of verification of the signatures of the members of Janapad Panchayat.

9. It is settled law that Court should not read more than what is provided under particular Statute.
10. In **Smt. Satya Prakash Parsadia** (supra) the Court has interpreted what is provided in the Rules, however, in absence of any such provision concerning satisfaction of the prescribed authority having been mentioned under Rule 3 (1), it is not permissible to hold that the Collector was required to personally verify the signature of each of the member signing the motion of no confidence.
11. In view of the above, challenge to the revisional order passed by the Additional Commissioner, Raipur Division in both the writ petitions fails and accordingly, both the writ petitions deserve to be and are hereby dismissed allowing the prescribed authority to proceed with the motion of no confidence.
12. There shall be no order as to costs. Sd/-

Judge
Prashant Kumar Mishra

Gowri