

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 342 of 2019**

*{Arising out of order dated 11.07.2019 passed by the learned Single Judge in Writ
Petition (C) No. 1959 of 2019}*

- Rajkumar Banjare S/o Late Sakhiram Banjare (Wrongly mentioned as Rakhiram Banjare in writ petition) Aged About 34 Years Up Sarpanch, Panch Ward No. 4, Gram Panchayat Mudpar (Khi), Janpad Panchayat Nawagarh, District Janjgir Champa, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh Through the Secretary, Department of Panchayat and Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh.
2. Addl. Commissioner Bilaspur Division, Bilaspur, District Bilaspur, Chhattisgarh.
3. Collector Janjgir, Civil And Revenue District Janjgir-Champa, Chhattisgarh.
4. Sub Divisional Officer (Revenue) / Competent Authority Civil And Revenue District Janjgir Champa, Chhattisgarh.
5. Tahsildar (Presiding Officer), Nawagarh, Tahsil Nawagarh, (Wrongly Mention As 'Jaijaipur' In Writ Petition) Civil And Revenue District Janjgir-Champa, Chhattisgarh.
6. Durpati Sahu W/o Shri Narayan Prasad Sahu Aged About 38 Years Srapanch, Gram Panchayat Mudpar (Khi.) Post Khisora, Police Station and Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
7. Raju Das Mahant S/o Shri Mukut Das Mahant Aged About 30 Years Panch, Ward No. 01, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
8. Ramkhilawan Khunte S/o Late Shri Ramcharan Khunte Aged About 35 Years Panch, Ward No. 02, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
9. Sahod Ram Kashyap S/o Sonar Kashyap Aged About 38 Years Panch, Ward No. 03, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
10. Smt. Sangeeta Bai Sahu W/o Shri Puran Lal Sahu Aged About 38 Years Panch, Ward No. 05, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station and Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
11. Bodhan Das Mahant S/o Late Shri Mohan Das Mahant Aged About 45 Years Panch, Ward No. 06, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.

12. Smt. Meena Bai Kashyap W/o Shri Dulesh Ram Kashyap Aged About 36 Years Panch, Ward No. 07, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
13. Smt. Laxmin Bai Sahu W/o Shri Shobha Ram Sahu Aged About 42 Years Panch, Ward No. 08, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
14. Smt. Madasa Bai Sahu W/o Shri Raghunath Sahu Aged About 45 Years Panch, Ward No. 09, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
15. Smt. Reeta Bai Sahu W/o Shri Nandkumar Sahu Aged About 30 Years Panch, Ward No. 10, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
16. Smt. Durga Bai Sahu W/o Shri Baliram Sahu Aged About 32 Years Panch, Ward No. 11, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
17. Smt. Durga Bai Khunte W/o Shri Dinesh Kumar Khunte Aged About 37 Years Panch, Ward No. 37, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
18. Smt. Meena Devi Mahipal W/o Shri Gendram Mahipal Aged About 35 Years Panch, Ward No. 13, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
19. Prakash Kumar Banjare S/o Shri Bharatlal Banjare Aged About 33 Years Panch, Ward No. 14, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
20. Smt. Seeta Bai Roy W/o Shri Sanjay Kumar Roy Aged About 34 Years Panch, Ward No. 15, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
21. Jawaharlal Banjare S/o Late Shri Saharu Ram Banjare Aged About 55 Years Panch, Ward No. 16, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
22. Smt. Kheekh Bai Khunte W/o Shri Pradeep Kumar Khunte Aged About 35 Years Panch, Ward No. 17, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.
23. Radheshyam Kashyap S/o Late Shri Asharam Aged About 58 Years Panch, Ward No. 18, Gram Panchayat Mudpar (Khi.), Post Khisora, Police Station And Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh.

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For Appellant	:	Shri N. Naha Roy, Advocate.
For Respondents No.1 to 5:	:	Shri R.S. Baghel, Deputy Advocate General.
For Respondent No.6	:	Shri Dashrath Kushwaha, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, Judge

30.07.2019

1. The challenge in this appeal is to the order dated 11.07.2019 passed by the learned writ Court in WPC No. 1959 of 2019, whereby the writ Court passed an interim order in favour of the Petitioner / Respondent No.6.
2. The facts of the case are that the Respondent No.6 was elected as Sarpanch of Gram Panchayat Mudpar (Khi), Janpad Panchayat, Nawagarh, District Janjgir-Champa (C.G.). The elected Panch had moved an application for bringing no confidence motion against her before the prescribed authority. The prescribed authority, after fixing the date for holding of the motion of no confidence and appointed presiding officer. On the date fixed, the motion of no confidence took place and the no confidence motion was carried out with majority. The proceedings was formed by the presiding officer and forwarded to the prescribed authority.
3. The Respondent No.6 / Petitioner against whom the motion of no confidence was carried out, filed a reference under Section 21(4) of the C.G. Panchayat Raj Adhiniyam, 1993 (for short, 'Adhiniyam of 1993') before Collector. The Collector, after considering the reference came to conclusion that the notice as required under the law to be served upon the Respondent No.6 was not served and therefore, set aside the motion of no confidence dated 17.09.2018.
4. The order of the Collector was challenged by the Appellant (Up-Sarpanch) herein before the Additional Commissioner, Bilaspur, Division Bilaspur by filing the revision petition. The Commissioner, after hearing the parties, has set aside

the order passed by the Collector vide order dated 14.05.2019. The Respondent No. 6, dissatisfied with the order passed by the Commissioner in revision, filed writ petition bearing WPC No. 1959 of 2019 and the learned writ Court after hearing the Respondent No.6 / Petitioner as well as the Appellant who appeared as caveator, has stayed the effect and operation of the order dated 14.05.2019 passed by the Commissioner.

5. The learned counsel for the Appellant submits that the motion of no confidence was carried out with majority and out of 19 members of the Panchayat 18 were present, 17 voted in favour of motion and 1 vote was declared as invalid. He submits that the Commissioner, on the basis of the facts and circumstances of the case and looking to the majority of the vote casted in favour of the no confidence motion has rightly set aside the order passed by the Collector, but the learned writ Court has not considered the facts and circumstances in its entirety and passed the interim order of stay.
6. Per contra, the learned counsel appearing for the Respondent No.6 / Petitioner would support the order passed by the learned writ Court and would submit that as no notice was served to her in accordance with law and the service of notice is mandatory, the Collector has rightly set aside the proceedings of the motion of no confidence.
7. We have heard the learned counsel for the parties.
8. The order challenged by the Appellant in this writ appeal is only an interim order passed by learned writ Court and the learned writ Court is yet to pass final order in the writ petition filed by the Respondent No.6. The impugned order would also show that the records of the no confidence motion has also been called for to ascertain the correct factual aspects of the case.
9. As the writ Court is seisen with the writ petition, for its consideration on merits, we are not inclined to interfere with the order impugned wherein only the interim

order of stay has been challenged because any order passed by this Court would affect the merits of the writ petition which is yet to be decided. However, the Appellant may complete the pleadings of the writ petition and make a mention before the writ Court for early hearing of the case by filing an appropriate application assigning reasons thereof.

10. With the above observation the writ appeal is disposed off.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge