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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.34879 of 2019

Date of decision: 06.02.2020

Samsuddin Altmas

.....Petitioner

V/s.

State of Haryana and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Mohammad Arshad, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Mr. Talim Hussain, Advocate, for respondent No.5.

Sanjay Kumar, J. (Oral)

The petitioner is a Member of the Panchayat Samiti of Block and Tehsil Punhana, District Nuh, State of Haryana.

It is his case that he, along with 16 other Members of the Samiti, sought convening of a meeting to move a 'No Confidence Motion' against the Chairman of the Panchayat Samiti, the fifth respondent herein. It is his further case that without following the due procedure, a notice was issued on 19.11.2019 (Annexure P-3) for convening a meeting on 29.11.2019, without indicating that the proposed 'No Confidence Motion' was also one of the agenda items.

Mr. Talim Hussain, learned counsel appearing for the fifth respondent, would contend that in the meeting held on 29.11.2019, seventeen out of thirty Members of the Panchayat Samiti, Punhana,

expressed solidarity with the Chairman and therefore, the question of permitting the petitioner to press for a meeting to be convened for that purpose does not arise.

Rule 10 of the Harayna Panchayati Raj Rules, 1995 (hereinafter, 'the Rules of 1995') deals with a 'No Confidence Motion' against the Chairmen, Vice-Chairmen, Presidents and Vice-Presidents of panchayat bodies and sub-rule 1 thereof prescribes that the Deputy Commissioner would be the authority for this purpose. Sub-rule 2 is of significance and states to the effect that the notice of meeting for considering the motion of no confidence should be issued at least seven days before the date fixed for the meeting intimating the date, time and place of the meeting, by proclamation and by beat of drums in the areas concerned and by fixing a copy of the same on the notice board of the concerned Panchayat Samiti and at other conspicuous places in the village. The notice is to be issued to all the Members by registered post with acknowledgement due at their ordinary places of residents and a copy thereof is also to be fixed on the notice board of the office of the Block Development and Panchayat Officer and the Deputy Commissioner. The Additional Deputy Commissioner is stated to be the presiding authority at such a meeting in the case of the Chairman of a Panchayat Samiti, in terms of sub-rule 3. The manner of voting in the meeting is indicated in sub-rule 4.

In the light of the detailed procedure prescribed in the aforestated Rule, it was not open to the Panchayat Samiti to consider the 'No Confidence Motion' sought to be moved by the petitioner and others against the fifth respondent at the meeting held on 29.11.2019, on the

strength of the notice dated 19.11.2019, as the prescribed norms were not adhered to. Further, there is no indication of the jurisdictional Additional Deputy Commissioner having participated in the said meeting in terms of Rule 10(3) of the Rules of 1995.

The writ petition is accordingly disposed of directing the third respondent to ensure that a meeting is convened on the strength of the application submitted by the petitioner and others in strict accordance with the procedure prescribed under Rule 10 aforesaid. It is also made clear that the meeting held on 29.11.2019 shall have no effect and be of no import in this regard. This exercise shall be completed expeditiously and in any event, not later than three weeks from the date of receipt of a certified copy of this order.

No order as to costs.

06.02.2020.

rakesh

(SANJAY KUMAR)
JUDGE

whether speaking/non speaking : *Yes/no*

whether reportable/non reportable : *Yes/no*