

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1236 of 2021**

- Smt. Laxmi Bai W/o Shri Goukaran Singh Aged About 40 Years Sarpanch, Gram Panchyat Bhardakala, Janpad Panchyat Gunderdehi, District Balod Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchyat Department, Mantralaya, Atal Nagar, Naya Raipur Chhattisgarh
2. The Collector District Balod Chhattisgarh
3. The Sub Divisional Officer (Revenue) Gunderdehi District Balod Chhattisgarh
4. The Tahsilar Gunderdehi District Balod Chhattisgarh
5. The Chief Executive Officer Janpad Panchyat Gunderdehi District Balod Chhattisgarh
6. Murari Prasad Up-Sarpanch Gram Panchyat Bhardakala, Janpad Panchayat Gunderdehi District Balod Chhattisgarh

---- Respondents

For Petitioner : Shri Shikhar Bakhtiyar, Advocate

For Respondent/ State : Ms. Sunita Jain, G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****03.03.2021**

Heard.

1. Learned counsel for the petitioner would submit that the petitioner was Sarpanch of the Village Bhardakala. The Panch of the Gram Panchayat Bhardakala moved an application before the SDO to initiate proceeding under Section 40 of the Panchayat Raj Adiniyam, 1993 labeling certain

allegations. He further submits that the SDO conducted the enquiry and found that no such allegations exists and stated that the main allegation was with respect to the fact that the husband of the Sarpanch interferes in the working of the Panchayat and it was turned down after the enquiry. Therefore, the two enquiry Officers who were of Janpad Panchayat found that the complaint is vague. It is further contended that again on the basis of the same allegation the application has been filed before the SDO vide Annexure P-1 seeking no confidence motion under Section 21 of the Act of 1993. He would further submit that on the earlier occasion when the Section 40 of the Act of 1993 sought to be invoked it was turned down after enquiry and on the same allegation the no confidence motion cannot lie as the earlier proceeding would be a deemed no confidence motion which was within 1 year.

2. Perused the documents.
3. Perusal of Section 21 (3) would show that it do not contemplate such deemed fiction, the language of Statute under Section 21 (3) (iii) of the Act of 1993 is clear and unambiguous which is reproduced hereinunder:-

21. No-confidence motion against Sarpanch and Up-Sarpanch:-

(3) No-confidence motion shall not lie against the Sarpanch or Up-Sarpanch within a period of-

- (i) one year from the date on which the Sarpanch or Up-Sarpanch enter their respective office;
- (ii) six months preceding the date on which the term of office of the Sarpanch or Up-Sarpanch, as the case may be, expires:
- (iii) one year from the date on which previous motion of no-confidence was rejected.

4. Admittedly, the procedure of no confidence motion was not moved earlier, it was only on the enquiry certain finding have been arrived at. Therefore, it

cannot be amalgamated with the provisions of Section 21 (3) as it would be independent and democratic process, consequently the same cannot be stayed.

5. In a result, the petition fails and is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti