

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(C) No. 1998 of 2021**

Chandra Kumar Patel, S/o. Raghunath Patel, Aged About 49 Years, R/o. Village Saraipali, District Mahasamund Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur Chhattisgarh.
2. Director Urban Administration And Development, Directorate, Urban Administration And Development 4th Floor, D Block Indrawati Bhawan, Atal Nagar, Raipur, Chhattisgarh.
3. Collector Mahasamund, Chhattisgarh.
4. Municipal Council, Saraipali, Through The Chief Municipal Officer, Municipal Council Saraipali, District Mahasamund, Chhattisgarh.
5. President, Municipal Council Saraipali, District Mahasamund, Chhattisgarh.
6. Smt. Sita Satpathi, Councilor, Ward No. 7, Saraipali, District Mahasamund Chhattisgarh.

---- **Respondents**

For Petitioner : Ms. Sharmila Singhai, Sr. Advocate

For State : Mr. Gagan Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**ORDER**

08.06.2021

Heard.

1. Grievance of the petitioner, who is one of the Councilor of Ward No.10, Municipal Council Saraipali, is that the President-in-Council was elected under the C.G. Municipalities Act, 1961 (*for short "the Act, 1961"*) on 13.01.2020 and as per Section 70 sub-section 2 of the Act, 1961, the constitution of President-in-Council would consist of President and 7 Members in respect of Municipal Council. It is submitted that one of the Member of the President-in-Council namely Smt. Sita Satpathi withdrew her consent on 13.01.2020, on the date she was appointed. However, the President-in-Council without taking cognizance of that started to transact the

business and have taken different decisions including financial decisions. Under the circumstances, the petitioner has made an application to the Collector Mahasamund by Annexure P-5 and Chief Municipal Officer, Nagar Palika Parishad Saraipali Annexure P-6. It is stated that the grievance were highlighted in such representation, however, the same is kept in abeyance. It is further submitted in absence of the valid constitution of President in Council, the Council could not have taken the financial decision to transact the business.

2. Considering the limited grievance and perusal of the Annexure P-5 & P-6, it appears that in respect of the constitution of the President-in-Council in Municipality of Saraipali, the petitioner had made a representation. Sub Section 2 of Section 70 of the Act, 1961 defines that the President-in-Council shall consist of President and seven Members in case of Municipal Council. Then in such case, if one of the councilor is not part of it to make it 7 to complete the question and highlighting the fact when representation is filed, which has a factual support from Section 70(2) of the Act, 1961, the same cannot be shelved and is required to be decided by a speaking order. Under the circumstances, the petitioner is given liberty to file a fresh representation to the Chief Municipal Officer, Nagar Palika Parishad Saraipali within a period of two weeks raising all his grievance and in case if such representation is filed, the same would be decided in accordance with law of the Act, 1961 within a further period of 30 days.
3. With the aforesaid observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge