

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2863 of 2021**

- Manishankar Sarthi S/o Shri Gendlal Sarthi Aged About 31 Years Sarpanch, Gram Panchayat Deori, Khurd, Janpad Panchayat Takhatpur, R/o Village Deori Khurd, Post Kathakoni, Police Station And Tehsil Takhatpur, Civil And Revenue District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Collector, Bilaspur, Civil And Revenue District Bilaspur Chhattisgarh
2. Competent Authority / Sub Divisional Officer (Revenue) Takhatpur, Civil And Revenue District Bilaspur Chhattisgarh
3. In -Charge Tehsildar (Presiding Officer) Tehsil Takhatpur Civil And Revenue District Bilaspur Chhattisgarh
4. Chief Executive Officer Janpad Panchayat Takhatpur, Civil And Revenue District Bilaspur Chhattisgarh
5. Smt. Munni Bai Raj W/o Shri Shital Singh Raj Aged About 45 Years Panch Ward No. 1 Gram Panchayat Deori Khurd
6. Smt. Pooja Kaushik S/o Shri Sarju Kaushik Aged About 30 Years Panch Ward No. 2 Gram Panchayat Deori Khurd
7. Smt. Ramkumari Kaushik W/o Shri Shyamavtar Kaushik Aged About 47 Years Panch Ward No. 3 Up Sarpanch Gram Panchayat Deori Khurd
8. Rajendra Yadav S/o Shri Pardesi Yadav Aged About 32 Years Panch Ward No. 4 Gram Panchayat Deori Khurd
9. Smt. Nirmala Manikpuri W/o Shri Karandas Manikpuri Aged About 30 Years Panch Ward No. 5 Gram Panchayat Deori Khurd
10. Vishnu Kaushik S/o Shri Ramesh Kaushik Aged About 31 Years Panch Ward No. 6 Gram Panchayat Deori Khurd
11. Smt. Nandini Yadav W/o Shri Laxman Yadav Aged About 30 Years Panch Ward No. 7 Gram Panchayat Deori Khurd
12. Smt. Savitri Sharma W/o Shri Ravindra Sharma Aged About 35 Years Panch Ward No. 8 Gram Panchayat Deori Khurd
13. Jaishankar Choubey S/o Shri Ramashankar Choubey Aged About 35 Years

Panch Ward No. 9 Gram Panchayat Deori Khurd

14. Chhaura Yadav S/o Shri Laxman Yadav Aged About 40 Years Panch Ward No. 10 Gram Panchayat Deori Khurd

Respondents No.5 to 14 are R/o Village Deori Khurd, Police Station And Tehsil Takhatpur, Civil And Revenue District Bilaspur Chhattisgarh

---- Respondents

For Petitioner : Shri Ramesh Kumar Nayak, Advocate

For Respondents/State : Shri Ashish Tiwari, GA

Hon'ble Shri Justice Goutam Bhaduri

Order

16/07/2021

1. Heard.
2. The challenge in this present petition is to the notice and the order dated 06.07.2021 which is carried out under the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Viruddh Avishwas Prastav) Niyam, 1994 (hereinafter referred to as 'Rules, 1994').
3. Learned counsel for the petitioner would submit that no confidence motion was moved on 06.07.2021 and the SDO has not put on the date on which hour and at which time the notice was given to him and has not acknowledged which is mandatory under sub-rule (2) Rule 3 of the Rules, 1994. It is further submitted that sub-rule (3) Rule 3 of the Rules, 1994 prescribes that on receiving the notice

under sub-rule (1) the prescribed authority shall satisfy himself about the admissibility of the notice. However, in this case admissibility of the notice was delegated to the CEO and same was done by two auditors, therefore, further as per Rule 4 of the Rules, 1994, the appointment of the presiding officer is to be done by the State Government to consider the no confidence motion, however, in this case the same has not been carried out.

4. Perused Rule 3 of Rules, 1994. Perusal of Annexure P-1 would show that Annexure P-1 is the first notice which was given to the SDO i.e. the competent authority, it was on 06.07.2021 and on 06.07.2021 the same was received and order-sheet was opened and was sent by the SDO thereby he has acknowledged the same. Simply because the time has not been shown in such notice, it cannot be prima facie said that there is non-compliance of sub-rule (2) Rule 3 of the Rules, 1994. Further more, sub-rule (3) Rule 3 of the Rules, 1994 prescribes that on receiving the notice under sub-rule (1) the prescribed authority shall satisfy himself about the admissibility of the notice. Documents would show that after receipt of the notice, the communication was made to enquire as to whether the signature which were appended to the notice were by the *Panchas* who wanted the no confidence motion to be carried out are genuine or not? The answer having received thereafter having been satisfied, notice has been issued to carry out the no confidence motion on 20.07.2021 which is evident from the order-sheet dated 09.07.2021. The delegation of the ministerial work whether the

signature is by the respective Panchas or not has been carried out through auditors. Subsequent thereto the SDO himself accorded his satisfaction pursuant to sub-rule (3) Rule 3 of the Rules, 1994. It is not expected that the SDO will personally visit each & every Panch to verify their signature, it is the ministerial work which is carried out by the SDO through other officials. The primary fact is that the satisfaction is arrived is evident from the order dated 09.07.2021, therefore, I do not find any reason to interfere with such notice of no confidence at this stage.

5. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu