

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) No. 3500 of 2021

Smt. Lata Devi Ghrutlahre, W/o. Ashwani Kumar Ghutlahre, Aged About 32 Years, Sarpanch Of Gram Panchayat Binauri, Janpad Panchayat Masturi, District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Its Secretary, Panchayat And Rural Development Department, Mantralay, Mahanadi Bhawan, Atal Nagar, Naya Raipur (Chhattisgarh)
2. Collector Bilaspur, District Bilaspur Chhattisgarh
3. Sub Divisional Officer (Rev.)-Cum-Prescriber/ Presiding Officer, Masturi, District Bilaspur Chhattisgarh
4. Gram Panchayat- Binauri, Through Its Secretary, Janpad Panchayat Masturi, District Bilaspur Chhattisgarh
5. Kirti Bai Yadav, Up-Sarpanch, Binauri
6. Vishvanath Tondon, Panch, Gram Panchayat Binauri
7. Dharamlal Koshley, Panch, Gram Panchayat Binauri
8. Suruj, Panch, Gram Panchayat Binauri
9. Ram Sagar Mahilange, Panch, Gram Panchayat Binauri
10. Seema Devi, Panch, Gram Panchayat Binauri
11. Kanchh Kumar Jangde, Panch Gram Panchayat, Binauri
12. Kamal Singh Jangde, Panch, Gram Panchayat, Binauri
13. Rama Devi Verma, Panch, Gram Panchayat, Binauri
14. Shashi Devi Kurre, Panch, Gram Panchayat, Binauri
15. Chintamani Ghrutlahre, Panch, Gram Panchayat, Binauri
16. Rukhmani, Panch, Gram Panchayat, Binauri
17. Priya Jangde, Panch, Gram Panchayat, Binauri
18. Manisha Dahariya, Panch, Gram Panchayat, Binauri

All Respondents No.5 to 18 are R/o. Village Binauri, Gram Panchayat Binauri, Tahsil Masturi, District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Chandrabhushan Kesharwani, Advocate
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For State/Respondents No.1 to 3.	:	Mr. Vaibhav Shukla, Advocate
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For Respondents No.5 to 18 :	:	Mr. K.A.Ansari, Sr. Advocate with Mrs. Meera Ansari, Advocate
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Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.09.2021

Heard

1. The petitioner prays for the following reliefs :

“10.1. That, the Hon'ble Court may kindly be pleased issue writ/writ, direction/directions to the respondents and further be pleased to allow the instant writ petition and notice dated 23.08.2021 for moving motion of no-confidence against the petitioner, (Annexure P-1) issued by the respondent No.3 herein, may kindly be set aside in the interest of justice.

10.2. That, the Hon'ble Court may kindly be pleased to grant any other relief, which is deems fit and proper.”

2. Learned counsel for the petitioner would submit that there is a violation of Rule 3 (3) of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha UP-Sarpanch, Janapad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (*for short “the Niyam, 1994”*) as the notice of no confidence should have been issued through the Secretary of the Gram Panchayat but the S.D.O. has directly issued the notice which is violative of Rule 3(3) of the Niyam, 1994. He further submits that the no-confidence motion is in violation of Rule 3(1) as the date and time has not been affixed by the competent authority, which is mandatory as required under the rule. Therefore, the entire motion of no confidence itself is bad in law. He further submits that from the initial application of 13.08.2021, 15 days have passed, therefore, no confidence motion cannot be held.

3. Per contra, learned counsel for the respondents would submit that only limited prayer was made by the petitioner wherein the notice was challenged but subsequently a fresh notice has been issued on 27.08.2021 and the date of no confidence motion is fixed on 06.09.2021, therefore, this petition has become infructuous.
4. The document filed before this Court would show that initially the notice which was under challenge was of 23.08.2021 (Annexure P-1) and the prayer of the writ petition is confined to the notice. The entire proceedings of the no confidence motion which is carried out is not under challenge. The petitioner himself has placed on record a copy of the notice dated 27.08.2021 wherein no confidence motion is fixed on 06.09.2021, therefore, the subsequent notice having not been challenged which was received by the petitioner on 29.08.2021, the relief cannot be granted to stay the proceeding which is to be carried out pursuant to the subsequent notice issued.
5. With respect to the completion of the proceeding after receipt of notice exceeding 15 days, this Court in case of *Ramdayal Sahu v. State of Chhattisgarh* vide order dated 10.05.2019 in WPC No.1720 of 2019 has held the time specified is not mandatory in nature. Therefore, no relief can be granted to the petitioner as of now. Accordingly, the petition is dismissed.

Aks

Sd/-
(Goutam Bhaduri)
Judge