

CWP-7939 of 2021

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

(PROCEEDINGS THROUGH V.C.)

CWP-7939 of 2021

Date of Decision: 08.04.2021

Smt. Rajni

...Petitioner

Versus

The State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present:- Mr. Mahir Sood, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the impugned notice of requisition dated 19.03.2021 (Annexure P-4) to bring no confidence motion against the petitioner and quashing of the impugned notice letter dated 25.03.2021 (Annexure P-10) issued by the Deputy Commissioner, Kaithal, fixing the date of the meeting for consideration of the no confidence motion on 12.04.2021 on the ground that the same is arbitrary, illegal, *mala fide* and against the settled provisions of law. Allegations have also been made that this is a case where money is being paid to the councillors for voting against the petitioner.

It is the contention of the learned counsel for the petitioner that the no confidence motion which has been signed by nine of the total

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thirteen members of the municipal council is not in the correct format. Although it is alleged that the requirement is only 1/3rd of the total number of members of the committee which obviously is fulfilled, however, he states that the Deputy Commissioner has not verified as to whether the members who are alleged to have signed the said notice have actually signed or not. He asserts that because of non-verification of the said fact the consequent issuance of notice letter dated 25.03.2021 (Annexure P-10) fixing 12.04.2021 as the date for considering the no confidence motion against the petitioner is illegal and unsustainable. It has also been asserted that as per proviso to Rule 72-A(1) of the Haryana Municipal Election Rules, 1978 the members have not been informed that the motion could be withdrawn before the meeting, if convened for the said purpose. He thus contends that firstly the impugned notice of requisition for bringing no confidence motion dated 19.03.2021 (Annexure P-4) as also the notice letter dated 25.03.2021 (Annexure P-10) issued by the Deputy Commissioner to consider the no confidence motion by fixing 12.04.2021 as the date is not sustainable and deserves to be set aside. Assertion has also been made that the concillors are being paid money for voting against the petitioner.

We have considered the submissions made by the counsel for the petitioner but do not find ourselves in agreement with the said contentions as have been raised. As regards the cash for votes allegations, which have been made by the petitioner, they are bald assertions without any further fortification of the said allegations. No details thereof have been given.

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As regards the contention of the counsel for the petitioner that the notice of requisition dated 19.03.2021 (Annexure P-4) to bring in no confidence motion against the petitioner is concerned, he asserts that the same cannot be said to be a valid notice in the light of the fact that the Deputy Commissioner has not verified the fact as to whether the councillors have actually signed the said requisition or not. Mere attachment of affidavits along with the notice for no confidence motion would not be enough and therefore, the said notice could not have been acted upon by the Deputy Commissioner also is not sustainable as there is nothing mentioned in Rule 72-A which would require such a process of verification of the signatures of the members of the committee who would have signed and moved the notice of no confidence motion.

That apart, the assertion of the petitioner with regard to the challenge to the letter dated 25.03.2021 (Annexure P-10) issued by the Deputy Commissioner for considering the no confidence motion moved by nine members of the committee fixing the date as 12.04.2021 being not sustainable as it has not been mentioned that the motion could be withdrawn before the meeting is convened for the said purpose, suffice it to say that there is no mandate with regard to mentioning of such an aspect in the letter fixing the date for the meeting for considering no confidence motion initiated against a president or vice-president. There being no mandate under the statute, the assertion of the counsel for the petitioner cannot be accepted. Even otherwise, the no confidence motion has been given by the members of the committee who are well-aware of their rights and duties and therefore, the assertion of the counsel for the

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petitioner in any case cannot be accepted.

Finding no merit in the present writ petition, the same stands dismissed.

(Augustine George Masih)
Judge

April 08, 2021
R.S.

(Ashok Kumar Verma)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No