CGHC010391122026 2026:CGHC:43027

PRIYANKA VERMA Digitally signed by PRIYANKA VERMA Date: 2026.10.05 16:51:34 +0530

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5053 of 2026

1 - Kamleshwari Santosh Jalchhatri, W/o Santosh Jalchhatri, Aged About 43 Years Sarpanch Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G.

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Nava Raipur, District - Raipur C.G.

2 - Collector Raipur, District Raipur C.G.

3 - Sub Divisional Officer Prescribed Officer, Aarang, District - Raipur, C.G.

4 - Chief Executive Officer (C E O), Zila Panchayat Raipur, District - Raipur C.G.

5 - Chief Executive Officer (C E O), Janpad Panchayat Aarang, District - Raipur, C.G.

6 - Smt. Devki Bai Chandrakar, Deputy Sarpanch, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G.

7 - Smt. Binda Bai Dhruv, Ward Councilor Ward No. 02, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

8 - Smt. Basanti Bai Yadav, Ward Councilor Ward No. 03, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

9 - Smt. Pushpa Bai Dhruv, Ward Councilor Ward No. 04, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

10 - Hiraman Nishad, Ward Councilor Ward No. 05, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

11 - Roshanlal Nishad, Ward Councilor Ward No. 07, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

12 - Smt. Reshmi Yadav, Ward Councilor Ward No. 09, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

13 - Smt. Radha Jalchhatri, Ward Councilor Ward No. 10, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

14 - Smt. Kamla Nishad, Ward Councilor Ward No. 11, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

15 - Smt. Hemin Bai Nishad, Ward Councilor Ward No. 12, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

16 - Smt. Gauri Chakradhari, Ward Councilor Ward No. 13, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

17 - Chetan Chakradhari, Ward Councilor Ward No. 14, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

18 - Bhanwar Singh Dhruv, Ward Councilor Ward No. 15, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

19 - Smt. Rekha Bai Chakradhari, Ward Councilor Ward No. 16, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

20 - Mukesh Kumar Bhardwaj, Ward Councilor Ward No. 17, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

21 - Horilal Sahu, Ward Councilor Ward No. 18, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

22 - Smt. Bugal Bai Bandhe, Ward Councilor Ward No. 19, Gram Panchayat Kutela, Tehsil And P. S. Aarang, District - Raipur C.G

... Respondents

For Petitioner	:	Ms. Mahima Chandra, Advocate
For Respondent/State	:	Mr. Vivek Verma, GA
For Caveator	:	Mr. Mayank Chandrakar, Advocate

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

05/10/2026

1. By way of the present writ petition, the petitioner calls in question the order/notice dated 24.09.2026 (Annexure P/1) passed by the Sub-Divisional Officer cum Prescribed Authority, Aarang, District- Raipur (C.G.) whereby a meeting for consideration of the no-confidence motion has been directed to be convened on 05.10.2026 at 4:00 p.m. against the petitioner/Sarpanch of Gram Panchayat Kutela, Tehsil & Police Station Aarang, District- Raipur (C.G.).

2. Learned counsel for the petitioner submits that the petitioner has filed a complaint against the ex-Sarpanch and his relatives and, therefore, the no-confidence motion has been initiated by the concerned Up-Sarpanch and other Panchas with an ulterior motive. She submits that, in such circumstances, the notice convening the meeting of no-confidence motion as well as the entire proceedings initiated against the petitioner, are liable to be quashed.

3. Learned State counsel, on instructions, submits that the matter has been enquired into and from perusal of the complaint, it appears that the same has been made against the ex-Sarpanch and other persons. He submits that merely because the said persons are related to the present Up-Sarpanch would not affect the procedure for consideration of the no-confidence motion. He further submits that the no-confidence motion has been initiated by 16 Panchas along with the Up-Sarpanch and after due verification, the SDO has rightly passed the order convening the meeting. Lastly, he submits that if the no-confidence motion is defeated, the petitioner would continue to serve as Sarpanch and, therefore, no interference with the proceedings scheduled for today is called for.

4. Learned counsel for the caveator/Up-Sarpanch submits that the petitioner is not acting in accordance with the provisions of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 and, therefore, the no-confidence motion has been initiated, which has also been duly verified and no interference is called for.

5. I have heard learned counsel for the parties and perused the documents annexed with the petition carefully.

6. This Court in the matter of **Smt. Janki Sahu vs. State of Chhattisgarh** in WPC No.2757 of 2021, decided on 25.07.2023 has observed in paragraph Nos.11 to 17 as under;-

> ***"11.*** *With respect to other grounds raised by learned counsel for petitioner that S.D.O. has got the signature of Panchas who submitted application for convening no confidence motion through Chief Executive Officer is in violation of Rule 3 (2) and 3 of the Rules of 1994. Perusal of Rule 3 (3) of the Rules of 1994 would show that requirement under the said rules is only that Prescribed Authority has to satisfy himself about the admissibility of the notice with reference to Section 21 (3) of the Act of 1993. Section 21 (3) of the Act of 1993 is extracted below for ready reference :-*
>
> ***"21. No-confidence motion against Sarpanch and Up-Sarpanch.*** *- (1) On a motion of no-confidence being passed by the Gram Panchayat by a resolution passed by majority of not less than three fourth of Panchas present and voting and such majority is more than two third of the total number of Panchas constituting the Gram Panchayat for the time being, the Sarpanch or*

Up-Sarpanch against whom such motion is passed, shall cease to hold office forthwith.

(2) Notwithstanding anything contained in this Act or the rules made thereunder a Sarpanch or an Up-Sarpanch shall not preside over a meeting in which a motion of no-confidence is discussed against him. Such meeting shall be convened in such manner as may be prescribed and shall be presided over by an officer of the Government as the Prescribed Authority may appoint. The Sarpanch or the Up-Sarpanch, as the case may be, shall have a right to speak at, or otherwise to take part in, the proceeding of the meeting.

(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) If the Sarpanch or the Up-Sarpanch, as the case may be, desires to challenge the validity of the motion carried out under sub-section (1), he shall, within seven days from the date on which such motion was carried, refer the dispute to the Collector who shall decide it, as far as possible, within thirty days from the date on which it was received by him, and his decision shall be final."

12. *Challenge to the proceedings of no confidence motion is not on the ground that it was convened contrary to the provisions as mentioned under Section 21 (3) of the Act of 1993. In the Case at hand, the*

Prescribed Authority for his satisfaction have got the signatures of the Panchas in the application placed before him verified. After satisfying, he proceeded for convening the no confidence motion. There is no specific provision in this regard and therefore, once the Prescribed Authority recorded his satisfaction that the application is in accordance with the provisions under Section 21 of the Act of 1993, the submission of learned counsel for petitioner that entire proceedings is vitiated as Prescribed Authority has not verified the signatures himself is also not sustainable.

13. *The petitioner in this writ petition has not pleaded that she suffered serious prejudice at any stage of proceeding. In absence of any serious prejudice shown, pleaded, no confidence motion carried out by majority can not be interfered with. In democratic system when majority of elected Panchas have posed no confidence motion on petitioner. Provision under Section 21 of the Act of 1993 and the Rules of 1994 only provides that no confidence motion can be requested before the Prescribed Authority and it has to be convened in accordance with the Rules of 1994 subject to application is not falling within the Sub-Section 3 of Section 21 of the Act of 1993.*

14. *In case of* ***Bhulin Dewangan vs State of MP & Others {2000 (4) MPHT 69},*** *Full Bench of High Court of Madhya Pradesh considered the non-compliance of the Rules of 1994 and observed thus :-*

“15. The general rule is that non-compliance of mandatory requirement results in nullification of the Act. There are, however, several exceptions to the same. If certain requirements or conditions are provided by

statute in the interest of a particular person, the requirements or conditions, although mandatory, may be waived by him if no public interest are involved and in such a case the act done will be valid even if the requirements or conditions have not been performed. This appears to be the reason for learned C.K. Prasad, J., in Dhumadhandin v. State of M.P. (1997 (1) Vidhi Bhasvar 49) which was followed by R.S. Garg, J., in Mahavir Saket v. Collector, Rewa (1998 (1) JLJ 113) for holding that mere non-compliance of first part of the rule in fixing a meeting beyond the prescribed days of the motion of no-confidence would not invalidate the whole proceedings. In case of Dhumadhandin (supra), the Sarpanch did not question the validity of the notice calling the meeting of no-confidence and in fact had taken chance by facing the motion. R.S. Garg, J., in Mahavir Saket (supra) placed reliance on the decision of C.K. Prasad, J., in Dhumadhandin (supra) to up-hold the passing of the no-confidence motion in the adjourned meeting as in the meeting called within the prescribed fifteen days the Presiding Officer was not available. Sub-section (4) of Section 21 permits reference of a dispute to the Collector by Sarpanch or Up-Sarpanch against whom a notice of no confidence motion had been passed. The proceedings of the no-confidence motion or other proceedings under the Act are also assailable in this Court as Constitutional Court under Article 227 of the Constitution of India. As has been construed by us, even though second part of the rule requiring dispatch of notice of the meeting to the member is mandatory, yet in every case of challenge to the proceeding of no-confidence motion either before the Collector or this Court, it would still be open to the Collector or this

Court to find out whether in a given case non-compliance of any part of the rule has in fact resulted in any failure of justice or has caused any serious prejudice to any of the parties. The general rule is that a mandatory provision of law requires strict compliance and the directory one only substantial. But even where the provision is mandatory, every non-compliance of the same need not necessarily result in nullification of the whole action. In a given situation even for non-fulfillment of mandatory requirement, the authority empowered to take a decision may refuse to nullify the action on the ground that no substantial prejudice had been caused to the party affected or to any other party which would have any other substantial interest in the proceeding. This Court under Article 227 of the Constitution has also a discretion not to interfere even though a mandatory requirement of law has not been strictly complied with as thereby no serious prejudice or failure of justice has been caused. This is how various Single Bench decisions in which even after finding some infraction of the second part of Rule 3 (3) of the Rules of 1994, the resolution of no-confidence motion passed was not invalidated on the ground that no substantial prejudice thereby was caused to the affected parties. The intention of the legislature has to be gathered from the provisions contained in Section 21 and the Rule 3 (3) framed thereunder. The provisions do evince an intention that a meeting of the no-confidence motion be called within a reasonable period of not later than 15 days and every member has to be informed of the same seven days in advance. A notice of no-confidence motion is required to be moved by not less than 1/3rd of the total number of elected members as required by first Proviso to Sub-rule

(1) of Rule 3 and can be lawfully carried by a resolution passed by majority of not less than 3/4th of the Panchas present and voting and such majority has to be more than 2/3rd of the total number of Panchas constituting the Panchayat in accordance with subsection (1) of Section 21 of the Act. This being the substance of the provisions under the Act and the rules, a mere non-compliance of second part of Sub-rule (3) would not in every case invalidate the action unless the Collector while deciding the dispute under Sub-section (4) of Section 21 or this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution comes to the conclusion that such non-compliance has caused serious prejudice to the affected office bearer or has otherwise resulted in failure of justice.

15. *In case of* ***Sahasram Jangde & Ors vs. State of Chhattisgarh & Others {2013 (4) CGLJ 526},*** *this Court observed as under :-*

"6.When the law laid down by the full Bench of M.P. High Court and Division Bench of this Court is applied to the facts of the present case, it is to be seen that respondent No.6 Sarpanch has not raised any ground before the Additional Collector that because of the fact that meeting was convened on 8th day from the date of dispatch of notice and not on 9th day, and thus clear 7 days notice was not issued, she has suffered grave prejudice in preparing herself for the meeting and there being no such finding by the Additional Collector in the impugned order, it will be taken as if no prejudice has been caused to respondent No.6 Sarpanch and thus in absence of prejudice or failure of justice, the Additional Collector has wrongly set aside the resolution of the Gram Panchayat declaring the no-confidence motion to

be passed. It is also to be seen that once this Court in the earlier writ petition has held that the earlier resolution of the Gram Panchayat passing no-confidence motion in May, 2011 having been annulled on technical grounds, the bar against moving of another motion within one year would not apply, the SDO(Revenue) should not have sought opinion from the Chief Executive Officer, Janpad Panchayat or from the Deputy Director Panchayat. However, by doing so, he wasted 7 days in the process. Therefore, once the no confidence motion has been passed the democratic norms and the statutory provisions cannot be left at the mercy of the prescribed authority when the law is well settled in the case of Bhulin Dewangan(Supra). Declaring the resolution of the Gram Panchayat which has passed the no confidence motion by majority as illegal would render the wish of the house nugatory and the Sarpanch who has lost the confidence of the house shall be allowed to function without any mandate in her favour. Such interpretation of Rule is neither permissible nor contemplated and this Court will not allow such effort of the prescribed authority to frustrate the will of the house by adopting dilatory tactics on the pretext of seeking legal opinion or opinion from the higher authorities. Learned counsel for respondent No.6 has relied on judgment of M.P. High Court in the matter of Jugraj Singh Markam Vs. Dhannalal Maravi and others : 2003 (4) MPLJ 378. However, in view of the discussion made above, and particularly the law laid down by the Full Bench of the M.P. High Court and the peculiar facts of this case, the said judgment relied upon by respondent No.6 has no application and is distinguishable. In the result, the writ petition succeeds and is allowed. The

impugned order dt. 28.06.2012 passed by the Additional Collector is set aside. Consequently respondent No.6 no longer remains as Sarpanch of Gram Panchayat, Dahida, Tahsil Sarangarh District Raigarh."

16. *In the aforementioned decision, the Court have held that every non-compliance of mandatory provisions need not necessarily resulted nullification of the whole action and in the given situation of non-fulfillment of the mandatory provisions the authority empowered to take decision may refuse to nullify the action on the ground that no substantial prejudice has been caused to the party affected.*

17. *In absence of raising any specific grounds that members against whom no confidence motion is carried stating that she suffered grave prejudice in the procedure adopted for convening the no confidence meeting no such finding can be recorded.*

7. The principal contention of the petitioner is that the no-confidence motion has been initiated with an ulterior motive, since the petitioner had lodged a complaint against the erstwhile Sarpanch and certain other persons who are stated to be related to the present Up-Sarpanch.

8. In the considered opinion of this Court, the aforesaid circumstance, by itself, cannot be a ground to invalidate the statutory proceedings for consideration of a no-confidence motion. The fact that some of the persons named in the petitioner's complaint may be related to the present Up-Sarpanch does not, without anything more, establish mala fides or render the initiation of the no-confidence proceedings illegal. The allegation of ulterior motive must be supported by cogent material

demonstrating that the statutory process has been misused or that the proceedings are otherwise contrary to law.

9. At this stage, the Court is only concerned with the validity of the process initiated for consideration of the no-confidence motion and not with the merits of the allegations made either by the petitioner or by the members supporting the motion. The statutory scheme itself contemplates that the elected representatives may express their loss of confidence in the Sarpanch in accordance with the procedure prescribed under the Act and the Rules.

10. It is also significant that the impugned notice merely convenes the meeting for consideration of the no-confidence motion. The final consequence, if any, would depend upon the result of the meeting and the statutory requirement governing the passing of the resolution. The petitioner would have the opportunity to participate in the proceedings and exercise the rights available to her under Section 21 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993.

11. Having regard to the aforesaid legal position and the facts of the present case, this Court finds that the Prescribed Authority, after due verification, has directed convening of the meeting. No violation of the statutory embargo contained in Section 21(3) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 has been demonstrated. Further, no specific or substantial prejudice has been shown to have been caused to the petitioner by the procedure adopted.

12. In these circumstances, merely because the petitioner had earlier lodged a complaint against the erstwhile Sarpanch and certain other persons who are related to the present Up-Sarpanch, would not, in the absence of any cogent material establishing mala fides or statutory illegality, furnish sufficient ground for this Court to interdict the proceedings for consideration of the no-confidence motion.

13. Accordingly, this Court is not inclined to interfere with the order/notice dated 24.09.2026 (Annexure P/1) issued by the Sub-Divisional Officer-cum-Prescribed Authority, Aarang, District Raipur (C.G.) or with the consequential proceedings for consideration of the no-confidence motion.

14. Consequently, the writ petition is **dismissed.**

15. It is made clear that this Court has not expressed any opinion on the merits of the allegations contained in the no-confidence motion, and the competent authority shall proceed strictly in accordance with law.

Sd/-
(Amitendra Kishore Prasad)
Judge

Priyanka