

(2001) 10 MP CK 0016

In the Madhya Pradesh High Court

Case No : Writ Petition No. 4885 of 2001

Hariwat Tekam (Smt.)

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 23-10-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Madhya Pradesh Municipalities Act, 1961 — Section 43A
Madhya Pradesh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke Adhyaksha Tatha Upadhyaksha Ke Virudh Avishwas Prastav) Niyam, 1994 — Rule 3, 3(3)
Madhya Pradesh Panchayat Raj Adhiniyam, 1993 — Section 21, 21(1), 21(3), 21(4), 35(3)
Panchayat (Method of Service of Notice and Document) Rules, 1995 — Rule 3

Citation : (2003) 1 J LJ 65

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : R.N. Singh and Praveen Verma, for the Appellant; Ajay Mishra, D.A.G. for Respondents No. 1 and 2, N.C. Jain, R.K. Jain and Rakesh Jain for interveners, for the Respondent

Final Decision : Dismissed

Judgement

Dipak Misra, J.—Sustainability of the notice dated 21.9.2001, Annexure A-7, issued by the Chief Executive Officer, Janpad Panchayat, Mehandwani, Respondent No. 4, herein, has been called in question in this writ petition preferred under Article 226 of the Constitution of India with a prayer for issue of a writ of certiorari for quashment of the same. There is further prayer for issuance of direction for detail enquiry to be conducted in relation to the selection process of contract teachers by any independent authority and to pass such other order/direction as may be deemed just and proper in the facts and circumstances of the case.

2. Facts as have been depicted in the writ petition are that the Petitioner was elected as President of Janpad Panchayat, Mahendwani, Dindori. The Respondent

No. 3 was elected as Vice President of the said Janpad Panchayat. Certain asseration have been made with regard to election and appointment of contract teachers which need not be referred to for the purpose of present writ petition in as much as the seminal issue that arises for consideration in this petition is whether the issuance of notice contained in Annexure A-7 fixing the date for no-confidence motion is valid in law and if there is any impropriety/illegality in issuance of the said notice does it vitiate the entire action that ensues on foundation of the such notice. Bereft of assertions relating to the selection process of the teachers and the feud that took place between the Petitioner and others, the essential aspects which need adumbration are that the motion of no confidence was mooted against the Petitioner which led to issuance of notice by the Chief Executive Officer vide Annexure A-7. It is putforth that the said notice though has been stated to have been issued on 21.9.2001, has actually been issued on 23.9.2001 in clear contravention of the provisions enshrined under M.P. Panchayat (Gram Panchayat Ke Sarpanch Tatha Upsarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President and Vice President Ke Viruddh Avishvas Prastav) Rules 1994 (hereinafter referred to as "the Rules") inasmuch as there has been no seven clear days gap between date of dispatch and date of holding of the meeting. It is also setforth that the Collector has not stated the date when he had received the complaint and from how many members as a result of which the Petitioner is unable to point out whether the impugned notice was issued between fifteen days of receipt of complaint. Allegations have been made that none of the members had any information regarding the meeting pertaining to no-confidence motion but the information was given on 24.9.2001 nearly four days before the date of meeting. With the aforesaid averments prayer has been made for quashing of the Annexure A-7 and any action taken in furtherance thereof.

3. By order dated 27.9.2001 this Court directed issuance of notice and as an interlocutory measure further directed that the meeting scheduled to be held on 28.9.2001 in pursuance of notice contained in Annexure A-7 would be held but the result thereof would not be given effect to till the next date.

4. During the pendency of this case an application was filed by some of the members of the Janpad Panchayat to intervene in the matter. An application was filed for calling of the entire records on the basis of which the notice, annexure A-7, was issued.

5. This Court considering the submissions, advanced by the learned Counsel for the Parties directed requisition of the records from the Collector, Dindori. Collector, Dindori produced certain records on the date of hearing which indicated that he had sent the notice to the Chief Executive Officer. He had not produced the record to show when the Chief Executive Officer had dispatched the notices. It is pertinent to mention here the concerned SDO in whose presence the meeting was held had produced the relevant record of the proceeding relating to no-confidence motion.

6. I have heard Mr. R.N. Singh, learned senior counsel alongwith Mr. Praveen Verma for the Petitioner, Mr. Ajay Mishra, learned Dy. Advocate General for the Respondents 1 and 2 and Mr. N.C. Jain, learned senior counsel alongwith Mr. R.K. Jain, for the Respondent No. 4.

7. Mr. Rakesh Jain, has filed an application for intervention forming the subject matter of I.A. No. 2683-w/01. The said application is allowed. I have also heard Mr. Rakesh Jain, learned Counsel for the interveners.

8. Mr. R.N. Singh, learned senior counsel for the Petitioner submitted that notice vide Annexure P-7 is indefensible as seven clear days notice has not been given as the same, though has been shown to be dispatched on 21.9.2001 as an actual fact the same was sent on 23.9.2001 indicating that the meeting is to be held at 2 p.m. on 28.9.2001. It is putforth by him issuance of notice being violative of rules in vogue the entire action is vitiated. It is urged by him that dispatch of notice by giving seven clear days is the mandatory requirement of the rules and there being infraction of the said rules the whole action has to be set at naught. It is proponed by the learned senior counsel that had there been proper notice the Petitioner, a tribal woman, could have got more time to persuade and convince the members about the exact situation and the state of affairs but due to pausity of time she has been deprived of the opportunity to do so which has caused substantial prejudice to her and, therefore, this Court in exercise of its extraordinary jurisdiction should declare the entire action commencing from the date of notice till the holding of the meeting as illegal, improper and pregnable. The learned senior counsel has placed reliance on the decision rendered in the case of Muku Bai Vs. State of M.P. and Others, .

9. Mr. Ajay Kumar Mishra, learned Deputy Advocate General appearing for the Respondents 1 and 2 submitted that the notice was issued on 21.9.2001 and every other member had received it on that day but as the Petitioner was not available she received it on 23.9.2001. It is further putforth by him that no case of prejudice has been made out by the Petitioner.

10. Mr. N.C. Jain, learned senior counsel for the Respondent No. 4, combatting the submissions of Mr. Singh, has canvassed that there had been seven days notice as both the dates, namely, 21.9.2001 and 28.9.2001 are not to be excluded. It is his further submission that there has been substantial compliance of the provisions and hence, the Petitioner cannot portray a picture of prejudice which, in fact, does not exist. Developing his submission it is urged by Mr. Jain that out of 12 members 11 had voted against the Petitioner and that apart the Petitioner was afforded an opportunity to address the meeting and, therefore, the element of prejudice which is pyramided by the Petitioner is nothing but a sisyphian endeavour. The learned Counsel has commended me to the decisions rendered in the cases of K. Narasimhiah Vs. H.C. Singri Gowda, , Narayandas Sharma Vs. State of Madhya Pradesh and Others, and Bhulin Dewangan v. State of M.P. and Ors. 2000 (2) JLJ 253 : 2001(2) MPLJ 372.

To appreciate the rival submissions raised at the Bar it is apposite to refer to Section 21 of M.P. Panchayat Raj Adhiniyam, 1993. It reads as under :

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 the 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.

11. In this context it is also profitable to refer to Rule 3 of the Rules. It reads as under :

3. Notice - (1) Elected members of Gram Panchayat, Janpad Panchayat or Zila Panchayat desiring to move a motion of no-confidence against the Sarpanch or Up-Sarpanch of a Gram Panchayat or President or Vice-President of Janpad or Zila Panchayat, as the case may be, shall give a notice thereof to the prescribed authority in the form appended to these rules :

Provided that such notice shall be signed by not less than one third of the total number of elected members of the concerned Panchayat :

Provided further that where the elected members desire to move the motion of no-confidence against both the Sarpanch and Up-Sarpanch, President and Vice-

President of Janpad Panchayat or Zila Panchayat, as the case may be, they shall give separate notice.

(2) The prescribed authority, on receiving the notice under Sub-rule (1) shall sign thereon a certificate stating the date on which hour and at which the notice has been given to him and shall acknowledge its receipt.

(3) On receiving the notice under Sub-rule (1) the prescribed authority shall satisfy himself about the admissibility of the notice with reference to Section 21(3), 28(3) and 35(3) as the case may be. On being thus satisfied, he shall fix the date time and place for the meeting of the Gram Panchayat. Janapad Panchayat or Zila Panchayat as the case may be, which shall not be more than fifteen days from the date of receipt of the said notice. The notice of such meeting specifying the date, time and place thereof shall be caused to be despatched by him through the Secretary of the Gram Panchayat or Chief Executive Officer of the Janapad or Zila Panchayat. as the case may be, to every member of the Panchayat concerned seven days before the meeting." The said Rule came to be interpreted in the case of Bhulin Dewangan (supra) and the Full Bench came to hold as under :

8. The second part of Sub-rule (3) of Rule 3 mandates that the prescribed authority after fixing date, time and place of the meeting within the prescribed period not later than 15 days as laid down in the first part of the Rule, shall cause despatch of notice of such meeting to every member of the Panchayat 7 days before the meeting. The said latter part of Sub-rule (3) of Rule 3 of 1994 Rules is mandatory as intimation of date, time and place of meeting to every member is essential to ensure his presence, if he so desires, in the meeting to be held on such vital issue of passing of no-confidence motion.

9. The legislature has designedly used the expression "the notice of such meeting specifying date, time and place thereof shall be caused to be dispatched by him through the Secretary" of the Panchayat concerned. The use of word "dispatch" appears to be deliberate and it cannot be read as "receipt" of the notice by the members of the Panchayat. No rule of interpretation permits reading of one word for the other. As is clear from the contents of the rule, the intention appears clear to us. The law intends that the notice of meeting should be sent to the members concerned seven days in advance of the meeting to enable them to participate in the motion of no-confidence. The rule does not convey any intention that the motion of no-confidence should be taken up only after each and every member of the Panchayat has been actually served with the notice. Had the intention been such, it would have been easy for the legislature to have clearly said so by use of word "receipt" instead of the word "dispatch" of notice 7 days in advance of the meeting. Use of word "dispatch" in the Rule is clearly with a view that merely on non-service of notice of meeting on one or few members, the consideration of motion of no-confidence should not be frustrated, as in any case the passing of it depends on existence of the requisite majority. Section 21, however, requires that a valid motion of no-confidence can be passed

only on a motion mooted by prescribed one third of total number of elected members and passed by majority of not less than 3/4th of the Panchas present and voting and such majority is more than 2/3rd of the total number of Panchas. If the motion is validly passed by the requisite majority, mere non-service of notice of meeting on one or more members would not render the passing of no-confidence motion invalid. The latter part of Sub-rule (3) of Rule 3 uses the words "shall be caused" indicating clearly that the rule is mandatory and requires due compliance. The literal meaning of word "dispatch" or "despatch" is given in New Standard Dictionary, Vol. I as under:

1. The act of dispatching; a forwarding to some destination : usually with the implication of promptness or celerity : as, as the dispatch of a messenger, or of the mails. 2. A message sent by special means and with haste, as by telegraph; especially a communication on public-matters sent by one official to another. 3. Quick transaction, as of business; speedy execution : the prompt performance and completion of work; expedition; speed; as, he shows ability in dispatch of business; he concluded the negotiations with dispatch.

10. We have, however, to assign both a literal and legal meaning to the word "dispatch" otherwise it is open to wicked abuse in the hands of concerned authority who may act in collusion with any of the elected members. It is not mere sending or giving of notice of meeting in the manner best suited to the liking of the Secretary of the Panchayat.

11. In the decision of the Supreme Court in the case of Delhi Development Authority Vs. H.C. Khurana, , the question arose was whether sealed cover procedure in the matter of promotion under the circular could be followed in the case of a government servant against whom although a charge-sheet had been issued but it was not served on him on the date of the proceedings of the DPC in that respect, the observations of the Supreme Court in its earlier decision in Union of India Vs. K.V. Jankiraman, etc. etc., came up for consideration. The contention advanced on behalf of the employee as a pre-condition for adopting sealed cover procedure should mean actual service of charge-sheet on the employee. Negating such a contention, the Supreme Court construed the meaning of the word "issued" used in the circular laying down sealed cover procedure in the case of H.C. Khurana (supra). In the circular of sealed cover procedure the word used were "government servants in respect of whom a charge-sheet has been issued." In the Rule 3(3) for construction before us, the expression used is analogous i.e. "notice shall be caused to be dispatched to him" The literal meaning for words "issued" and "dispatched" and the following observations in the decision of H.C. Khurana's case support the construction placed on the rule by us :

The meaning of the word "issued", on which considerable stress was laid by learned Counsel for the Respondent, has to be gathered from the context in which it is used. Meanings of the word "issue" given in the Shorter Oxford English Dictionary include : "to give exit to; to send forth, or allow to pass out;

to let out; to give or send forth,

or deal out formally or publicly; to emit, put into circulation". The issue of a charge sheet, therefore, means its despatch to the Government servant, and this act is complete the moment steps are taken for the purpose, by framing the charge-sheet and despatching it to the Government servant, the further fact of its actual service on the Government servant not being a necessary part of its requirement. This is the sense in which the word "issue" was used in the expression "chargesheet has already been issued to the employee", in para 17 of the decision in Jankiraman.

12. In this respect mode of service of notice prescribed in Panchayat (Method of Service of Notice and Document) Rules 1995 (shortly referred as 1995 Rules) need to be noticed. The said rules are to be read for understanding and giving effect to word "dispatch" used in the latter part of the rule. The different modes prescribed in Rule 3 of the said Rules of 1995 for service of notice include "giving or tendering the notice or document to the person concerned". In the absence of notice, giving or tendering the same to some adult member or servant of the family, sending the same by post under certificate of posting. If the member resides beyond the jurisdiction of Panchayat and his address is known, by sending the same to him by registered post acknowledgment due. The Rules of 1995 also prescribe the substituted mode of service. In the light of the above rules prescribing various modes of service of notice, the word "dispatch" would mean giving or sending for transmission the notice in the manner prescribed in the Rules of 1995 so as to complying the provisions of latter part of Sub-rule (3) of Rule 3 of 1994 Rules has to be in one of the prescribed mode indicated for service in the Rules of 1995. If the dispatch of notices is not in the mode prescribed for its service, there would be no proper compliance of the requirement of Sub-rule (3) of Rule 3 of the Rules of 1994.

On a perusal of the aforesaid ratio of the Full Bench it is plain as noon day that the notice has to be dispatched seven days in advance of the meeting. The Full Bench has also dealt with the mode and opined that if the dispatch of the notice is not done within time there would be no proper compliance of the requirement of Sub-rule (3) of Rule 3 of the Rules. Mr. Singh has drawn the attention of this Court to the decision rendered in the case of Muku Bai (supra) wherein the Division Bench has referred to the decision rendered in the case of Manbai v. State of M.P. and Ors. decided on 10.2.1998 in W.P. No. 657/97 where in D.P.S. Chouhan. J. relying on the decision of the Apex Court in The Pioneer Motors (Private) Ltd. Vs. The Municipal Council, Nagercoil, and Maxwell on Interpretation of Statutes came to hold that seven days notice means seven clear days notice of the meeting and both the terminal days are to be excluded from the computation. It is apposite to note here the Division Bench was dealing with the question whether the meeting is to be called within fifteen days and whether the same could be adjourned. The Division Bench expressed the view that the prescribed authority is under the obligation to convene the meeting of no-

confidence motion within fifteen days and said meeting can be adjourned for the reasons beyond the control of the prescribed authority.

Mr. N.C. Jain, learned senior counsel has referred to the decision rendered in the case of Narsimhaiha (supra) and has canvassed that both days are not to be excluded. In the case at hand such a contention need not be adverted to by me inasmuch as the notice purported to be issued on 21.9.2001 fixing the meeting on 28.9.2001. by no stretch of imagination, can be said to encompass a gap of seven days.

12. The moot question that arises for consideration is whether by such illegality the action taken in the meeting is vitiated, in this context I may profitably refer to the case of Muku Bai (supra) wherein the Division Bench by holding that convening of meeting within fifteen days is mandatory in paragraph 12 expressed the views as under :

12. However, in the present case, since no-confidence motion has been passed by majority; therefore, we will not like to interfere in such writ petition on facts irrespective of fact that the meeting was not called within 15 days as the Petitioner-Appellant has already lost the majority; therefore, we will not issue a direction for setting aside of that so called passing of no-confidence motion.

13. In the case of Narayan Das (supra) dealing with the no-confidence motion and Section 43A of M.P. Municipalities Act, 1961 this Court came to hold that dispatch of notice to every councillor is mandatory and moving of no-confidence motion by an elected Councillor is the basic requirement for the progress of the meeting on a specified date and in the said case there had been non-compliance of both the provisions. However this Court took note of the fact that the Petitioner therein having participated in the process and lost in the no-confidence motion. cannot claim relief as done by him. A reference was made to the case of K. Narasimhaiah (supra) wherein some of the Councillors of the concerned Municipality alleged to have received the notice less than three clear days but the Apex Court considering the factual matrix in paragraph 20 came to hold that the proceedings would not be prejudicially affected by such irregularity. Thereafter the learned Single Judge referred to the case of Ajit Singh v. Nagar Panchayat. 1995 MPLJ 774 and Muku Bai (supra) and refused to interfere.

14. In this context I may profitably refer to view expressed by the Full Bench in the case of Bullin (supra) wherein D.M. Dharmadhikari, J. (as his Lordship then was) speaking for the Court expressed 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 requirement or conditions, although mandatory, may be waived by him if no public interest is 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 reason for learned C.K. Prasad. J. in Dhumadandhin Vs. State of Madhya Pradesh and

Others, Vidhi Bhasvar 49 which was followed by R.S. Garg, J. in Mahavir Saket v. Collector, Rewa 1998(2) J.L.J. 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 lacing the motion. R.S. Garg, J. in Mahavir Saket (supra) placed reliance on the decision of C.K. Prasad, J., in Dhumadhandin meeting as in the meeting called within the prescribed fifteen days the Prescribed 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-fulfilment 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 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 provision to Sub-rule (1) of Rule 3 and can be lawfully carried by a resolution passed by majority of not less than 3/4 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 Sub-section (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." It is apposite to state here that the Full Bench approved the view taken in Muku (supra).

15. Now to the factual matrix. It is urged with vehemence by Mr. R.N. Singh that if the Petitioner as well as other members were informed seven days in advance she could have convinced them that the situation did not exist to oust her from the office by taking recourse to no-confidence motion but she was deprived of that benefit. It is apposite to notice here in the case of Muku Bai (supra) the Division Bench referred to the decision rendered in the case of Balramdas v. Commissioner, Raipur, 1984 MPWN 336 where the Division Bench held that in a no-confidence motion Sarpanch and Up-sarpanch as the case may be has a right to speak or otherwise to take part in the proceeding of meeting in which the no-confidence motion is being discussed and such a right is not an empty formality inasmuch as it enables the Sarpanch to give his point of view and if possible to dissuade the Panchas from voting against him. The Division Bench relying on the same came to hold that a right to address the House cannot be denied to such person as it is also a valuable right. The Bench further opined that this requirement is mandatory and, therefore, Sarpanch and Up-Sarpanch should be given right to speak when such a motion is brought against him. I have referred to the aforesaid decision only to show that a person has a right to convince the members of the Janpad Panchayat. In the case at hand the Petitioner received the notice as endorsed by her in Annexure A-7 on 23.9.2001. The meeting was held in 28.9.2001. The record of the proceeding of the meeting has been produced before this Court. On a perusal of the proceeding it transpires that 12 members of the Janpad Panchayat were present in the meeting on the scheduled time. Their presence was recorded in the register of the Janpad Panchayat. On a perusal thereof it transpires that the 11 persons had signed the proposal for no-confidence and the Petitioner who was present in the meeting had also addressed the meeting. As it transpires many times an issue was discussed and at every juncture the Petitioner participated, disputed the allegations and addressed the meeting. 11 members cast their votes in favour of the motion and one vote was cast against the motion. It is perceptible that all the members including the Petitioner had signed in the proceeding. It is noteworthy to state here Mr. Rakesh Jain who has entered appearance on behalf of the interveners submitted that 11 members had cast votes against the Petitioner. Mr. R.N. Singh, learned senior counsel has pointed out that the Vakalatnama in favour of the four persons has been filed. The said aspect melts into insignificance in view of the record produced by the competent authority who presided over the meeting and signatures put in the proceeding. In my considered opinion whether there is Vakalatnama in favour of the four or ten persons is inconsequential as the

original record has been made available to this Court.

16. In view of the aforesaid factual senario, the heart of the matter is whether any substantial prejudice has been caused to the Petitioner. On a close scrutiny of the proceeding it is absolutely luminescent that on every issue the Petitioner was allowed to speak and to convince the other members. It cannot be said that basic tenet of democracy has been crucified and the Petitioner has been deprived of the opportunity which has resulted in success of the no-confidence motion. Taking stock of the fact situation in proper perspective, weighing the material brought on record and regard being had to the submissions canvassed by Mr. R.N. Singh, learned senior counsel for the Petitioner, I am of the considered opinion that there is no tinge of doubt that no prejudice was caused to the Petitioner. In fact, there is no shadow of shade. Consequently I perceive no error in issuance of notice contained in Annexure A-7 and the subsequent action taken in furtherance thereof and the eventual result that came into existence in the meeting held on 28.9.2001 and I unhesitatingly conclude, the entire action is impeccable and deserves the stamp of approval of this Court.

17. Resultantly, the writ petition, being sans merit, stands dismissed without any order as to costs.