

(2023) 04 CHH CK 0017
In the Chhattisgarh High Court
Case No : Writ Appeal No. 170 Of 2023

Kamta Prasad Fekar

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 11-04-2023

Acts Referred:

Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 — Rule 3, 3(3)
Chhattisgarh Panchayat Raj Adhiniyam, 1993 — Section 21(3)

Citation : (2023) 04 CHH CK 0017

Hon'ble Judges : Ramesh Sinha, CJ; Sanjay K. Agrawal, J

Bench : Division Bench

Advocate : Nishikant Sinha, H.S. Ahluwalia, Akash Kedia

Final Decision : Dismissed

Judgement

1. Heard Mr. Nishikant Sinha, learned counsel for the appellant and Mr. H.S. Ahluwalia, learned Deputy Advocate General, appearing for the respondent Nos. 1 to 4 / State and Mr. Akash Kedia, learned counsel for respondent No.7.

2. The present intra Court appeal has been filed by the appellant against the order dated 21.03.2023 passed by the learned Single Judge in WPC No.2824 of 2022 (Kamta Prasad Fekar v. State of Chhattisgarh and Others), whereby the learned Single Judge has dismissed the writ petition challenging the order dated 21.06.2022 passed by respondent No.1 partly allowing the revision petition filed by the respondent No.7.

3. Undisputed facts are that the respondent No.7 was an elected Sarpanch of Gram Panchayat Hirmi. The respondents No.8 to 26 were other elected Panchas of the same Gram Panchayat all of whom were elected from Panchayat Election held on 04.02.2020. On 26.02.2021, some of the Panchas of the Gram Panchayat Hirmi moved a representation before the respondent No.4 calling for 'No Confidence Motion' to be convened against the respondent No.7-Sarpanch. The

respondent No.4 took cognizance on the said representation of the Panchas and proceeded in accordance with provisions of Section 21(3) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (in short, the Adhiniyam) and the Rules framed thereunder i.e. The Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 (in short, the Rules, 1994). The Prescribed Authority thereafter fixed the date for 'No Confidence Motion' to be held on 15.03.2021. In the course, the respondent No.4 had appointed the Naib Tehsildar, Suhela to act as a Presiding Officer and ordered for issuance of notices to all the parties concerned in this regard. On 15.03.2021 as per Schedule the meeting for No Confidence Motion was held and in the voting that took place, 15 votes were in favour of No Confidence and 5 votes were against the motion. Thus, the No Confidence Motion was passed by 3/4th of the majority.

4. Learned Single Judge vide order dated 21.03.2023 dismissed the writ petition filed by the appellant by observing as follows :

"20. Since in the present factual matrix there is no such reason, explanation and justification available on record, the decision holding No Confidence Motion beyond a period of 15 days is per se bad in law and violative of Rule 3(3) of Rules, 1994.

21. There is a concurrent finding of fact given by three statutory authorities wherein the order of the respondent No.4 of removing the respondent No.7 from the post of Sarpanch is held to be violative of Rule 3 of Rules, 1994. In the light of the statutory provision the findings arrived at by the three appellate and revisional authorities i.e. the District Collector, the Divisional Commissioner and the State Government cannot be said to be dehors the statute, coupled with the fact that there is no justification and explanation available on record of the prescribed authority stating the reasons which prevented him from holding the meeting within 15 days time."

5. In the facts and circumstances of the instant case and on a plain reading of order, we do not notice any such palpable infirmities or perversities, as such we are not inclined to interfere with the impugned order. Learned Single Judge while dismissing the writ petition by the impugned order has adverted to all the facts of the case.

6. The writ appeal is, accordingly, dismissed.