

(2002) 07 MP CK 0031

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1972 of 2001

Mahendra Singh Kourav and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 22-07-2002

Acts Referred:

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, 90
Madhya Pradesh Panchayat (Procedure of Meeting and Conduct of Business) Rules 1994 — Rule 3
Madhya Pradesh Panchayat Raj Adhiniyam, 1994 — Section 17(5), 25, 32
Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 — Section 10(1), 17, 18, 19, 2
Nirvachan Rules, 1995 — Rule 12(3)

Citation : (2003) 1 JLI 369

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : H.C. Kohli, for the Appellant; S.K. Yadav., Govt. Advocate for Respondent Nos. 1, 2, 4 and 5 and D.P. Vishwakarma, for the Respondent

Final Decision : Allowed

Judgement

Dipak Misra, J.—Invoking the extraordinary jurisdiction of this Court, the Petitioners have visited this Court for issue of a writ of certiorari for quashment of the order dated 9.4.2001, Annexure P-II, passed by the Collector, Narsinghpur, the Respondent No. 2 herein, and to issue such other directions as may be deemed fit and proper in the facts and circumstances of the case.

2. The essential facts which need to be adumbrated are thus :

The Petitioners are elected panchas of Gram Panchayat, Kherri-Mahalpur, Tehsil Kareli, District Narsinghpur. The Respondent No. 6 was elected as the Sarpanch on 2.2.2000 as contemplated u/s 20 of the Madhya Pradesh Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 (hereinafter referred to as "the Act"). The first

meeting of the Gram Panchayat was to be held within 30 days of the publication of the result of the election of Sarpanch. The State Government decided to fix a common date for holding of the first meeting for all the Gram Panchayats of the State and circulated a letter in that regard. The Collector, Narsinghpur issued a letter No. 238/2000 dated 4.2.2000 requiring the Sarpanch/Secretary of the Gram Panchayat concerned to convene the first meeting of the elected panchas on 11.2.2000. In pursuance of the letter issued vide Annexure P-1 letter No. 58 dated 5.2.2000 was issued by the competent authority of the Gram Panchayat intimating that the first meeting would be convened on 11.2.2000. Notice dated 6.2.2000 for holding of the first meeting was issued to the Sarpanch and all the panchas of the Gram Panchayat by the Prescribed Officer. The venue of holding of the meeting was fixed at Primary School, Kherri. Time stipulated was 1 p.m. The said notice has been brought on record as Annexure P-3.

3. According to the writ Petitioners, the first meeting of the Gram Panchayat Kherri-Mahalpur was convened on 11.2.2000 and the proceeding of the meeting was duly signed by the Secretary, Gram Panchayat and endorsed by the Prescribed Officer as per Annexure P-4. The Respondent No. 6 started functioning as Sarpanch from the date of first meeting held on 11.2.2000.

4. It is putforth in the petition that the term of the office bearer of the Gram Panchayat is for a period of five years from the date of the first meeting. It is stated in the petition that the meeting for the first month of the Gram Panchayat was held on 28.2.2000 in which the outgoing body handedover the office material to the newly elected body. The proceeding of the monthly meeting convened on 28.2.2000 has been brought on record as Annexure P-5. As time rolled by, it was noticed by the Panchas as well as other villagers that the Sarpanch was involved in a number of irregularities and embezzlement of the funds which prompted them to submit a written complaint to the competent authority. In addition to the lodging of the complaint the panchas moved a no-confidence motion against the Respondent No. 6 as provided u/s 21 of the Act, The prescribed authority deputed Respondent No. 5, the Tehsildar, to be the presiding officer over the meeting of no-confidence motion. In the notice, it was stipulated that no-confidence meeting was scheduled to be held on 13.3.2001 and it was served on the Sarpanch as well as on the panchas. The meeting, as scheduled, took place on 13.3.2001 at Janpad Primary School, Kherri-Mahalpur. It was presided over by the Respondent No. 5. The Sarpanch and Panchas. of the Gram Panchayat were present in the said meeting and the motion of no-confidence was mooted and the same was passed against the Respondent No. 6. The Proceeding that took place on the said day has been brought on record as Annexure P-8. The intimation of the no-confidence motion was sent by the Respondent No. 5 to Respondent No. 4 by letter dated 16.3.2001 as per Annexure P-16. Thereafter, the meeting was held was 20.3.2001, on which dated one Smt. Mamta Bai Mehara, the Petitioner No. 4, was elected as officiating Sarpanch till the election of Sarpanch was held in the regular manner. The Respondent No. 6 being aggrieved by the motion of no-confidence and her

removal filed a dispute before the Collector, Narsinghpur as enshrined u/s 21(4) of the Act, It is put forth that the dispute was time barred having not been presented within 7 days as provided under the said provision but the Respondent No. 2 by order dated 9.4.2001, Annexure P-11, ignored the period of limitation which is mandatory in nature and confused the point urged and came to hold that the motion of no-confidence was brought not after one year from the first meeting and hence, the decision taken in the meeting was null and void.

5. It is averred in the petition that the Respondent No. 2 has grossly erred in arriving at the conclusion that first meeting was held on 28.3.2000 and hence, the meeting held on 13.3.2001 was contrary to the statutory mandate. It is also highlighted that the Respondent No. 6 had participated in the motion of no-confidence but did not raise any objection and, therefore, she is not entitled to raise any objection in that regard after a later point of time. It is also put forth that the Respondent No. 2 clearly erred by recording a finding that the election of Up-sarpanch was not done in accordance with law. With the aforesaid averments prayer has been made, as has been indicated hereinbefore, for quashment of order dated 9.4.2001.

6. A return has been filed by the Respondent No. 6 contending, inter alia, that "panchas" were elected on 16.6.2000 and prior to that Petitioner was elected as Sarpanch on 2.2.2000. The election of Saipanch and Panchas was notified by the Commission on 4.2.2000 was provided under Rule 90 of the Nirvachan Rule 1995 by notification contained in Annexure R-I. the election of Up-Sarpanch was scheduled to be held on 11.2.2000. It has been put forth that election of three panchas had not been done by that time and they were declared elected on 16.6.2000. It is put forth that as per Section 20(1) the first meeting of the Gram Panchayat is to be held within 30 days from the date of publication u/s 19 of the Act, As per Section 20(2) of the Act, the office bearers of the Gram Panchayat are to hold office for five years from the date of the first meeting. Section 2(xiii) defines "office bearers" to mean a panch or Up-Sarpanch of Gram Panchayat. Reliance has been placed on Section 19 to show that newly elected Sarpanch would be deemed to have assumed charge of office with effect from the date of first meeting as provided u/s 20. It is pleaded that election can be treated to be completed only when the publication of the notification by Commission in the prescribed format is issued. Reference has been made to Rule 3 of the M.P. Panchayat (Procedure of meeting and conduct of business) Rules 1994 to highlight that notice of every meeting specifying the date, time and place thereof and business to be transacted is required to be sent by the Secretary to every office bearer and exhibited at the office of panchayat seven clear days before an ordinary meeting and three clear days before special meeting. The first phase of election relating to Sarpanch and seven panchas were notified on 4.2.2000 and the meeting of Gram Sabha was held on 11.2.2000. It is set forth that the meeting of Gram Sabha cannot be treated as the first meeting of the Gram Panchayat. Copy of the minutes of the meeting dated 11.2.2000 has been brought on record. It is also the case of the said Respondent that as seven clear

days notice had not been given the meeting could not have been treated as the first meeting of the Gram Panchayat. The next meeting of the Gram Panchayat was conveyed on 15.3.2000 and the same also cannot be treated as the first meeting as the Gram Panchayat was not fully and properly constituted inasmuch as three wards had not elected their panchas. Election of three panchas were completed on 16.6.2000 and, therefore, if any meeting is to be treated as the first meeting that would be treated after completion of the election of these members. It is contended in the petition that as one year had not elapsed as contemplated u/s 21 of the Act the order of the Collector nullifying the proceeding relating to vote of confidence is justified. It is also put forth that the State Government has framed a set of rules called the Madhya Pradesh (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Ke Virudha Avishwas Prastav) Niyam, 1994 [hereinafter referred to as "the Rules"]. Rule 3 of the rules stipulates the procedure for proceeding of the no-confidence motion. It is stated that the competent authority, namely, the Sub-Divisional Officer has not endorsed about the satisfaction and in regard to date and place of the meeting. It is put forth that on 7.3.2001 the Respondent No. 6 filed an application, Annexure R-3, before the Sub-Divisional Officer on the ground that he had erroneously conducted the meeting. The said authority did not consider the said application properly and rejected it, vide Annexure R-3 holding that the meeting of the Gram Sabha held on 11.2.2000 was the first meeting of the Gram Panchayat. Allegations have been made with regard to conducting of the meeting. The meeting of no-confidence was moved by the Petitioner No. 2 levelling charges pertaining to irregularities. Allegations have also been made with regard to manner of voting and counting of votes. Various facts have been put forth and the Collector was justified in passing the order.

7. A rejoinder has been filed by the Petitioner to the return filed on behalf of the Respondent No. 6. It is set forth in the said affidavit that the averment that the Gram Panchayat was not properly constituted because election in respect of three ward members was not held, is not correct. Election of Up-Sarpanch was held on 11.2.2000. The first meeting was to be held within 30 days of the publication of the notification of election of the Sarpanch and the State Government in order to bring uniformity in the tenure of the office bearers of Gram Panchayat at each level fixed a uniform dated i.e. 11.2.2000 for the purpose of first meeting of the Gram Panchayat and for election of the Up-Sarpanch and the said instructions of the State Government was circulated to all the competent authorities of the State which was duly circulated. In view of the said circular, the meeting of the Gram Sabha was held on 11.2.2000. The communications sent by the Competent Authority have been brought on record as Annexure P-12 and Annexure P-13. The prescribed authority was appointed on 7.2.2000 for conducting of the first meeting. It is put forth that the meeting of the Gram Panchayat, Khairi was held on 11.2.2000 and the proceeding of the said meeting was recorded in the register of the Gram Panchayat which was

witnessed and duly signed by the Presiding Officer as per Annexure P-4. With regard to receiving of notice a positive stand has been taken that due notice had been given as per rules and there was no illegality in holding the first meeting. It has been put forth that there has been no procedural error in holding the meeting and the allegations relating to voting were not averred before the Collector.

8. An application has been filed by the Respondent No. 6 for taking additional documents on record. The said documents include the statement of one Hiralal, Secretary of the Gram Panchayat, which was recorded on 9.4.2001. The said documents have been taken on record.

9. This Court had directed for production of the records relating to the proceeding. The said file has been made available to this Court.

10. I have heard Mr. H.C. Kohli, learned Counsel for the Petitioners, Mr. S.K. Yadav, learned Government Advocate for the Respondents No. 1, 2, 4 and 5 and Mr. D.P. Vishwakarma, learned Counsel for the Respondent No. 6. Learned Counsel for the parties have also submitted written notes.

11. It is contended by Mr. Kohli that if the dates on which the events took place are taken note of and considered in seriatim, it would be graphically clear that the first meeting was held on 11.2.2000 and no confidence motion was taken up after expiry of one year as provided u/s 21 of the Act and, therefore, the finding of the Collector in that regard is absolutely untenable. The learned Counsel has canvassed that if the documents which have been brought on record are scanned properly the meeting held on 11.2.2000 cannot be construed to be a meeting exclusively that of the Gram Sabha and not of the Gram Panchayat. He has also submitted that the additional documents which have been brought on record by the Respondent No. 6 also go along way to show that the first meeting was held on 11.2.2000. Supporting the proceeding relating to the meeting of no-confidence it is urged by Mr. Kohli that in the scheduled meeting all the panchas were present including the Sarpanch and the Sarpanch was given the fullest opportunity to explain the allegations made against her but she could not convince the members present why motion of no-confidence should not be passed and after complying the requisite formalities the motion was put to vote and 11 panchas voted in favour of the motion and two against it and the said proceeding was signed by the Presiding Officer. The learned Counsel has also referred to Annexures P-12, P-13 and P-14 to pyramid his submission that the first meeting was held on 11.2.2000 and the Respondent No. 6 cannot assail the said meeting on the ground that there was irregularity in it because she never challenged the said meeting before any forum and in any case, that would not anyway enure to the benefit of the Petitioner. The learned Counsel has argued that the meeting held on 28.8.2000 is the monthly meeting as provided u/s 44(1) of the Act and that meeting cannot and should not be equated with the first meeting. Mr. Kohli has put forth when Up-Sarpanch was elected on 11.2.2000 the stand taken by the Respondent No. 6 that the said election was bad in law, has no legs to stand upon as the said election had never been

questioned.

12. Mr. Vishwakarma, learned Counsel for the Respondent No. 6 has submitted that if the provisions of the Act are scrutinised in proper perspective, the first meeting cannot be said to have taken place on 11.2.2000. The learned Counsel has drawn attention of this Court to Sections 17, 18, 19 and 20 of the Act, It is putforth by him that if Annexure P-2 is taken note of, it relates to taking of oath though there is no such provision under the Act and hence, that will not be of any assistance to arrive at the conclusion that the first meeting was held, as putforth by the Petitioner, on 1.1.2.2000. Emphasis has been laid on non-compliance of the Rule 12(3) of the 1995 rules to highlight that proper notice had not been given and, therefore, the meeting held on 11.2.2000 cannot be treated to be legal and valid. The learned Counsel has submitted that minutes of the meeting dated 11.2.2000 clearly exposit that it was a special meeting of the Gram Sabha in which the election of Up-Sarpanch had taken place but there is no rule for convening of any special meeting in this manner. Procedure relating to convening of special meeting has been highlighted by Mr. Vishwakarma to bring home the point that transactions made on 11.2.2000 have no legal sacrosanctity. It is putforth by him that the letter issued by the Secretary, State Government on 4.2.2000 is not in consonance with the Rule 90 of the rules and that apart, in the instant case the election of Up-Sarpanch was never notified u/s 19 of the Act by 11.2.2000 and, therefore, the said meeting cannot be regarded as the first meeting of the Gram Panchayat. The learned Counsel has placed immense emphasis on the concept of first meeting as provided u/s 20 of the Act, It is canvassed by the learned Counsel for the Respondent No. 6 that even if the meeting dated 11.2.2000 is accepted to be valid, it can at best be regarded as special meeting of the Gram Sabha and not the first meeting of the Gram Panchayat for the purpose of computation of tenure and, therefore, motion of no-confidence which was mooted against her taking recourse to the same is totally null and void. It is urged by him that motion of no-confidence was carried out in a most illegal and perfunctory manner having scant regard to the procedure and the Collector has rightly lanced the whole proceeding.

13. At the very outset, I think it obligatory on my part to state that though the learned Counsel for the Petitioner had addressed this Court in relation to various issues and the learned Counsel for the Respondent No. 6 specially canvassed with regard to the irregularity in procedure in convening the meeting on 11.2.2000 and the procedure adopted during the course of the meeting pertaining to the motion of no confidence, on a perusal of the order passed by the Collector, it is perceptible, none of these aspects were highlighted and the only point that had arisen for consideration before the Collector was that the motion of no-confidence was mooted before expiry of one year as mandated u/s 21 of the Act, It is noteworthy to state here that the learned Counsel for the parties addressed at length on that score. Mr. Kohli stood embedded in his stand that the meeting relating to no-confidence motion was held after expiry of one year as provided u/s 21 of the Act and, therefore, motion of no-confidence has

been passed in accordance with law and there is nothing to find fault with it.

14. Per contra, Mr. Vishwakarma, learned Counsel for the Respondent No. 6 urged with immense certitude holding to his forte that the first meeting was not held on 11.2.2000 but on 28.2.2000 and hence, the mandatory period as provided u/s 21 of the Act had not expired and thus, the transaction made in the meeting pertaining to vote of no-confidence was null and void making the resolution a nullity in the eye of law. The heart of the matter is whether the meeting held on 11.2.2000 can be regarded as the first meeting of the Gram Panchayat. Section 2(vii) defines the Gram Panchayat. Meaning of the Gram Panchayat is given under Sub-section (1) of Section 10. Gram Sabha has been defined to convey the meaning that it is a body consisting of persons in the register with the electoral roll relating to village. "Office bearer" has been defined u/s 2(viii) which means Sarpanchas, Panchas and Up-Sarpanch of a Gram Panchayat, the member, the President or Vice President of the Janpad Panchayat or President or Vice President of Zilla Panchayat, as the case may be. Section 10 deals with establishment of Gram Panchayat, Janpad Panchayat and Zila Panchayat. Section 17 provides for election of Sarpanch and Up-Sarpanch. Sub-section (5) of the said Section reads as under :

17. xx xxxx xx

(1) xx xx xx

(2) xx xx xx

(3) xx xx xx

(4) xx xx xx

(5) The Prescribed Authority shall, as soon as may be, after every election call a meeting of the elected panchas and sarpanch for the purpose of election of Up-Sarpanch and subject to the provisions of Sub-section (7) the Gram Panchayat shall, in the meeting, so called elect from amongst its elected members an Up-Sarpanch.

15. Section 18 deals with handing over of the charge by the outgoing Sarpanch. Section 19 deals with notification of election. It is apposite to reproduce Section 19.

19. Notification of election - Every Election of Sarpanch, Up-Sarpanch and Panchas shall be published by the prescribed authority in such manner as may be prescribed.

16. Section 20 deals with the first meeting and term of the office. The said provision reads as under :

20. First meeting and term of office -

(1) First meeting of the Gram Panchayat shall be held within 30 days of the date of the publication u/s 19. Such meeting shall be convened by the prescribed

authority and the provisions of Section 44 regarding meeting as far as may be shall apply in respect of the said meeting.

(2) The office bearers of the Gram Panchayat shall hold office for five years from the date of the first meeting and no longer :

Provided that notwithstanding anything contained in this Sub-section every person becoming an office bearer of a Gram Panchayat shall cease to hold office forthwith -

(i) on his ceasing to be a voter of the Gram Panchayat area; or

(ii) On his becoming a member of State Legislative Assembly or member of either House of Parliament.

(3) If before the expiry of the period mentioned in Sub-section (2), the Gram Panchayat is not reconstituted, it shall stand dissolved on the expiry of the said period and the provisions of Section 87 shall apply thereto for a period not exceeding six months within which the Gram Panchayat shall be reconstituted in accordance with the provisions of this Act.

17. Section 21 deals with no-confidence motion against Sarpanch and Up-sarpanch. Section 21(3) of the Act provides the time-frame. The said provision reads as under :

21. xx xx xx

(1) xx xx xx

(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.

18. Section 44 deals with procedure of meeting. Sub-section (3) provides for the quorum. The said Sub-section is reproduced hereunder:

44. Procedure of meeting -

(1) xx xx xx

(2) xx xx xx

(3) The quorum for a meeting of Zila Panchayat and Janpad Panchayat shall be one third, and for a meeting of Gram Panchayat shall be one-half, of the members constituting the concerned Panchayat for the time being. If there be no

quorum present at a meeting, the presiding authority shall, adjourn the meeting to such date and hour as may be fixed by it. A notice of the meeting so fixed shall be posted in the office of the Panchayat. No quorum shall be necessary, for such postponed meeting, and no new subject for consideration may be brought before such meeting.

19. It is not disputed that the meeting relating to motion of no-confidence was held on 13.3.2001. Submission of Mr. Vishwakarma is that when the first meeting was held on 28.2.2000 the no-confidence motion could not have been initiated against the Sarpanch as the Sarpanch entered the office from the date of the first meeting. To appreciate the aforesaid submission, I have perused the documents which have been brought on record. On 2.2.2000 the Respondent No. 6 was declared elected by the Returning Officer. On 3.2.2000 certificate was issued. On 4.2.2000 election of the Sarpanch was notified. On 4.2.2000 the Collector issued a letter vide Annexure P-1 for conducting of the first meeting on 11.2.2000. In the said letter it has been mentioned that the State Government had issued instructions to hold a meeting of Gram Sabha on 11.2.2000 in respect of all the Gram Panchayats. The agenda was mentioned therein. One of the agenda included taking oath by the elected office bearers. It was also stipulated therein that the election of the Up-Sarpanch would take place on that date. Vide Annexure P-3 dated 5.2.2000, the competent authority had directed that the meeting of the Gram Panchayat should not be held prior to that. Said stipulation finds mention in paragraph 4 of the said order. Vide Annexure P-3, notice was issued by the prescribed authority for election of Up-Sarpanch on 11.2.2000. Vide Annexure P-14, the election officer was appointed for holding the election. It is also discernible that a unified date of the first meeting was fixed by the State Government for all the Gram Panchayats of the State by Annexure P-12. On a perusal of the record it is manifest that the proceeding of the meeting was recorded on 11.2.2000, and was signed by the prescribed authority.

20. The core question that arises for determination, in view of this present factual backdrop, what should be the first meeting of the Gram Panchayat. In this context submission of Mr. Vishwakarma is that the election of the Up-Sarpanch was totally illegal and, therefore, it cannot be said that the Gram Panchayat was properly constituted. The aforesaid submission is absolutely sans substance inasmuch as throughout the State the election of Up-Sarpanchas were held on that date and in any case, the election of Up-Sarpanch was never challenged. It is urged by him, the election of Up-Sarpanch was not notified on 11.2.2000 and hence, the first meeting could only have been held within 30 days from the date of publication u/s 19.

21. At this juncture, I think it apposite to mention that notification relating to the election of Up-Sarpanch has not been brought on record. Section 21(3) stipulates no-confidence motion shall lie against Sarpanch or Up-Sarpanch within the period of one year from the date of which the Sarpanch or Up-Sarpanch enter in respect of the office. Section 18 provides that newly elected shall be deemed to

have assumed the charge of the office with effect from the date of the first meeting, as provided u/s 20 and the outgoing Sarpanch is required to handover the papers and properties in his possession to the newly elected Sarpanch.

22. In this context, I may profitably refer to the letter issued on 4.2.2000 vide Annexure P-12. The same relates to the first meeting of Janpad Panchayat and Zilla Panchayat. In the said letter while referring to the first meeting of the Janpad Panchayat and the Zilla Panchayat wherein it has been mentioned that there is, however, no change in respect of the first meeting of Gram Panchayat. The relevant portion of the said letter reads as under :

The first meeting of the Gram Panchayats should be convened by appropriate competent authority under the provisions of Section 20, Section 27. Section 34 and Section 44 and for transacting business u/s 17(5); Section 25 and Section 32 of the Madhya Pradesh Panchayat Raj Adhiniyam (Act No. 1 of 1994) on the 11th February, 2000 as already communicated earlier.

In para 4 of the said letter it has been mentioned that this is an arrangement so that there should be uniformity in the tenure of all office bearers of Panchayats at each level. On a perusal of the Annexure P-13 it is also apparent that there was direction to convey the first meeting of the Gram Panchayat on 11.2.2000 and elect Up-Sarpanch after taking of oath in the Gram Sabha. Annexure P-14 is a communication by the Election Officer for holding the meeting of Khairi Gram Panchayat to be held for the purpose of election of the Up-Sarpanch. If all these documents are construed in a purposive manner, there remains no trace of doubt that the first meeting of the Gram Panchayat was held on 11.2.2000. On a perusal of Annexure P-3, it transpires that there was a direction to hold the first meeting of the Gram Panchayat at 1 p.m. In view of the instructions given by the State Government for the purpose of fixing a uniform date in regard to the tenure of the office bearers of the Gram Panchayat, it cannot be held that transaction of Gram Panchayat had not taken place on 11.2.2000. In my considered opinion the present factual scenario has to be studied and appreciated in a broader perspective, as narrow perception would usher in anarchy and chaos. Quite apart from the above, Respondent No. 6 has already lost confidence of the panchas as 11 panchas had voted against. Her continuance is unwarranted. The technical plea which has been advanced by the Respondent No. 6 in a colossal manner does not really advance to her cause as in effect and substance the first meeting of the Gram Panchayat was held on 11.2.2000. That apart, all other panchas were aware that the first meeting was held on that date. Whether notification of Up-Sarpanch was issued or not is in a different realm altogether. The State Government has the authority to issue instructions for holding a meeting on a particular date as throughout the State the same was followed and the Up-Sarpanchas were elected on that date. It would amount to transacting of business of the Gram Panchayat.

23. In view of the aforesaid analysis, I am of the considered opinion that it cannot be said that the first meeting of the Gram Panchayat was not held on

11.2.2000. The plea put forth by the Respondent No. 6 before the Collector in this regard was not substantiated properly and the finding recorded by the Collector is legally not sound. Thus, I experience no difficulty in quashing the order passed by the Collector, vide Annexure P-II and it is accordingly so directed.

24. Resultantly, the writ petition succeeds and is hereby allowed without any order as to costs.