

(2022) 12 CHH CK 0065
In the Chhattisgarh High Court
Case No : Writ Appeal No. 332 Of 2022

Sonbati Sahu

APPELLANT

Vs

Sub Divisional Officer (Revenue) Baloda Bazar

RESPONDENT

Date of Decision : 09-12-2022

Acts Referred:

Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke Virudh Avishvas Prastav) Niyam, 1994 — Rule 3, 3(3), 5(iii)
Chhattisgarh Panchayat Raj Adhiniyam, 1993 — Section 21, 21(3), 28(3), 35(3)

Citation : (2022) 12 CHH CK 0065

Hon'ble Judges : Arup Kumar Goswami, CJ;Arvind Singh Chandel, J

Bench : Division Bench

Advocate : H.B. Agrawal, Swati Agrawal, Jitendra Pali

Final Decision : Dismissed

Judgement

1. Heard Mr. H.B. Agrawal, learned senior counsel, assisted by Ms. Swati Agrawal, learned counsel for the appellant. Also heard Mr. Jitendra Pali, learned Deputy Advocate General, appearing for respondents No. 1 and 2.
2. This writ appeal is presented against an order dated 28.06.2022 passed by the learned Single Judge in WPC No. 2845 of 2022, whereby, the writ petition filed by the petitioner was dismissed.
3. The petitioner is a Sarpanch of Gram Panchayat-Sarkipar. Challenge in the petition was to a letter dated 17.06.2022, by which, the Sub-Divisional Officer had convened a meeting on 29.06.2022 at 11:30 am in the Panchayat Bhawan for discussing a no confidence motion under Section 21 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, for short, the Adhiniyam, 1993.
4. At the very outset, it must be recorded that in the meeting held on 29.06.2022, a resolution of no confidence motion was adopted against the petitioner and the petitioner is no longer the Sarpanch of Gram Panchayat,

Sarkipar.

5. A perusal of the order of the learned Single Judge would go to show that, primarily, three contentions were advanced: (I) Secrecy of ballot was lost, as the Panchas, who had given the requisition for no confidence, had given a statement before Prescribed Authority; (II) Notice dated 17.06.2022 was not accompanied by the requisition given by the Panchas for holding the meeting of no confidence and (III) Rule 5 of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke Virudh Avishvas Prastav) Niyam, 1994 (for short, the Rules of 1994) is impeached by the proceeding adopted.

6. The learned Single Judge repelled all the aforesaid contentions as devoid of being any merit.

7. So far as the first contention is concerned, it was observed by the learned Single Judge that in any event, requisition has to be given by the Panchas desiring to express no confidence against either the Sarpanch or Up Sarpanch and in that view of the matter, if in addition to the same, a statement is also given by them, the same would be of no consequence. It was also noted that Rule 3 (3) of the Rules of 1994 emphasized that the Prescribed Authority may satisfy himself with regard to the genuineness of notice and its admissibility by taking such steps as may be considered appropriate by him.

8. So far as the second ground is concerned, it was noted that the petitioner had obtained the relevant copies and therefore, the petitioner has fair and reasonable opportunity to present her case in the no confidence meeting.

9. The third ground was held to be not relevant as the same related to a stage when the meeting actually takes place.

10. Only contention of Mr. Agrawal is that it is not material as to whether the petitioner could obtain the copies including the copy of requisition notice, but what is of importance is that the notice issued by the Sub-Divisional Officer dated 17.06.2022 was not accompanied by the requisition notice and therefore, the same goes to the very root of the matter and the learned Single Judge failed to consider that aspect of the matter while holding that as the petitioner had collected the documents, the same would suffice for meeting the grounds taken by the requisitionists in support of their no confidence motion. According to him, for not giving the requisition notice along with the notice dated 17.06.2022 vitiates the entire proceeding.

11. Rule 3 of the Rules of 1994 is relevant to consider the submission of Mr. Agrawal. The same reads as under:

"3. Notice.- (1) Elected members of Gram Panchayat, Janapad 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 Janapad 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 Janapad 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.”

12. A perusal of the same would go to show that the provision does not require the notice of no confidence to be given by the requisitionists in the form prescribed to be enclosed with the notice fixing date, time and place of the meeting for the purpose of discussing the no confidence motion. Therefore, we are unable to accept the contention of the Mr. Agrawal.

13. It is to be noticed that no challenge is mounted that absence of such a provision requiring enclosing of the notice of no confidence with the notice specifying the date, time and place is arbitrary and illegal. In absence of any challenge to the provision, this Court would not venture to decide as to whether any prejudice is caused to the petitioner.

13. Accordingly, we find no merit in this appeal and resultantly, the writ appeal is dismissed.