CGHC010287702026 2026:CGHC:31965

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3872 of 2026

1 - Smt. Seema Banjare W/o Jitendra Kumar Banjare Aged About 31 Years Resident Of Gram Panchayat, Diggi, Janpad Panchayat, Simga, Tahsil- Suhela, District- Balodabazar-Bhatapara (C.G.)

... Petitioner

versus

1 - State Of Chhattisgarh Through- The Secretary, Panchayat Department, Mantralaya, Atal Nagar, Naya Raipur, District- Raipur (C.G.)

2 - The Collector District- Balodabazar-Bhatapara (C.G.)

3 - The Sub-Divisional Officer (Revenue) And Prescribed Authority (Panchayat) Simga, District- Balodabazar-Bhatapara (C.G.)

4 - The Tahsildar Suhela, District- Balodabazar-Bhatapara (C.G.)

5 - The Chief Executive Officer Janpad Panchayat Simga, District- Balodabazar-Bhatapara (C.G.)

6 - The Secretary Gram Panchayat, Diggi, Janpad Panchayat, Simga, Tahsil- Suhela, District- Balodabazar-Bhatapara (C.G.)

... Respondents

For Petitioner	**:**	Mr. K. K. Dewangan, Advocate
For Respondents	**:**	Mr. Sabyasachi Choubey, Panel Lawyer

Hon’ble Mr. Justice Amitendra Kishore Prasad

Order on Board

27.07.2026

1. This petition has been filed by the petitioner seeking for the following relief(s):-

> **“**10.1. That, this Hon'ble Court may kindly be pleased to call the records pertaining to the case from the respondent authorities.
>
> 10.2. That, this Hon'ble Court may kindly be pleased to set-aside the impugned notice dated 15.07.2026 (Annexure P/1) with all subsequent proceedings pursuant to the impugned notice dated 15.07.2026 and further be pleased to direct the respondent authorities to allow the petitioner to function as Sarpanch of Gram Panchayat Diggi, Janpad Panchayat Simga, District-Balodabazar-Bhatapara (C.G.).
>
> 10.3. To kindly grant any other relief which may be deem fit in the given facts and circumstances of the instant case.**”**

2. **Facts of the case** :- The petitioner was duly elected as the Sarpanch of Gram Panchayat, Diggi, in the Panchayat Elections held in February, 2025. It is averred that, on 13.07.2026, the Up-Sarpanch along with certain *Panchas* submitted a notice under Rule 3(1) of the Rules, 1994 seeking to move a motion of no confidence against her. Pursuant thereto, respondent No.3, without verifying the signatures of the Panchas or complying with

the mandatory procedure prescribed under the Rules, 1994, issued the impugned notice dated 15.07.2026 convening a meeting on 27.07.2026 for consideration of the no-confidence motion. The petitioner contends that neither she nor the other *Panchas* were served with the notice in the manner prescribed under law and that the notice was allegedly delivered through an unauthorized person and communicated to her only through WhatsApp, whereupon she came to know of the proceedings on 21.07.2026. According to the petitioner, the entire proceedings initiating the no-confidence motion are contrary to the mandatory provisions of the Rules, 1994, and are therefore liable to be quashed.

3. Learned counsel for the petitioner submits that the notice convening the meeting for consideration of the motion of no confidence was never duly served upon the petitioner in the manner prescribed under law. It is further submitted that, without satisfying itself as to the genuineness and verification of the signatures of the *Panchas* on the notice proposing the motion of no confidence dated 13.07.2026, the concerned Sub-Divisional Officer-cum-Prescribed Authority proceeded to issue the impugned notice convening the meeting for the no-confidence motion. It is contended that the mandatory procedure prescribed under the Chhattisgarh Panchayats (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch Ke Virudh Avishwas Prastav) Rules, 1994 (in short ‘Rules of 1994) has not been complied with,

inasmuch as no notice of the meeting scheduled for 27.07.2026 was served upon the petitioner through the Secretary of the Gram Panchayat or by the Sub-Divisional Officer-cum-Prescribed Authority. It is further submitted that the other *Panchas* were also not duly served with the notice and that the mandatory requirement of giving seven clear days' notice, as contemplated under the governing provisions, has not been fulfilled. Learned counsel further submits that the notice was merely forwarded to the petitioner through WhatsApp, from which it is evident that she came to know of the proposed meeting only on 21.07.2026. It is, therefore, contended that the entire proceedings relating to the motion of no confidence have been initiated in gross violation of the provisions of Section 21 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (in short ‘Act of 1993’) and Rule 3(3) Rules of 1994. It is also urged that the Prescribed Authority failed to verify and satisfy itself regarding the authenticity of the signatures of the Panchas before issuing the impugned notice. Accordingly, it is prayed that the no-confidence proceedings, including the meeting scheduled for 27.07.2026, be quashed.

4. On the other hand, learned counsel appearing for the respondent-State submits that the procedure prescribed under Section 21 of Act of 1993 as well as Rule 3(3) of Rules of 1994 has been duly complied with. It is contended that on perusal of the order-sheets maintained by the Sub-Divisional Officer-cum-Prescribed Authority reveals that the Prescribed Authority, after due verification and

satisfaction, recorded that all the 13 *Panchas* had signed the proposal for moving the motion of no confidence and had also affixed their signatures on the order-sheet. It is further submitted that the satisfaction of the Prescribed Authority in this regard stands duly recorded in the order-sheet dated 13.07.2026. Learned State counsel further submits that, after ensuring the statutory requirement of seven clear days' notice, the notice dated 15.07.2026 convening the meeting for consideration of the motion of no confidence on 27.07.2026 was duly served upon the petitioner, who was then the *Sarpanch* of *Gram Panchayat, Diggi*, as well as upon all the concerned *Panchas*, as is evident from the records. It is, therefore, submitted that the proceedings have been conducted strictly in accordance with the statutory provisions and the Rules governing the field, and that no illegality or procedural irregularity, as alleged by the petitioner, has been committed. Accordingly, it is prayed that the writ petition, being devoid of merit, be dismissed.

5. I have heard learned counsel for parties and perused the documents with utmost circumspection.

6. Upon perusal of the record, it appears that the Sub-Divisional Officer-cum-Prescribed Authority, *Simga*, initiated the proceedings for the motion of no confidence only after being satisfied with the proposal submitted before him, which was duly signed by 13 *Panchas* and contained allegations of misappropriation of funds and other irregularities against the petitioner. The order-sheet

dated 13.07.2026 further reveals that the Prescribed Authority verified the proposal, recorded his satisfaction regarding its compliance with the statutory requirements, and thereafter appointed Shri Kishore Kumar Verma, Tehsildar, Suhela, as the Presiding Officer to conduct the proceedings relating to the motion of no confidence. In such circumstances, the challenge raised by the petitioner to the initiation of the proceedings is devoid of any factual or legal basis. Moreover, the petitioner has failed to demonstrate as to what prejudice has been caused to her on account of the alleged procedural irregularities. It is well settled that, in the absence of any established prejudice, mere technical or procedural objections do not warrant interference by this Court in exercise of its writ jurisdiction.

7. The Full Bench of Madhya Pradesh High Court in the matter of ***Bhulin Dewangan Vs. State of Madhya Pradesh reported in (2001) 2 M.P.L.J. 372*** has considered this aspect and has held as under :-

> **"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 reasonably ensure its service on the notice. The dispatch of notice for 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.

13. Construing thus the meaning of word 'dispatch' in latter part of sub-rule (3) of Rule 3 of 1994 Rules, it has to be held that dispatch of notice for effecting

service on the members in one of the modes prescribed in Rules of 1995 would be due compliance of the provision.

14. An incidental question arose is whether non-compliance of the second part of sub-rule (3) of Rule 3 of the Rules of 1994, which we have held as mandatory, would as a necessary corollary invalidate the proceedings held in the meeting called for passing the no-confidence motion. This question has not directly been posed, but as the learned Single Judge appears to have noticed some conflict or cleavage of opinion between several Single Bench decisions of this Court, we find it necessary to express our opinion on the same,

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 vs. State of M. P., 1997(2) MPLJ 175 = 1997 (1) Vidhi Bhasvar 49 which was followed by R. S. Garg, J., in Mahavir Saket vs. Collector, Rewa, 1998 (2) 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-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 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 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 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.**"**

8. The Co-ordinate Bench of this Court has also considered the issue relating to the service of notice in proceedings for a motion of no confidence in the matter of ***Pushpa Bai Vs. State of Chhattisgarh and Ors. passed in WPC No.3363 of 2023 decided on 25.07.2023***. The relevant observations are reproduced hereinbelow:

> **"8.** Petitioner herself has enclosed copy of notice as Annexure-P/1 along with writ petition filed on 21.07.2023, which shows that copy of notice was received by petitioner prior to the date of filing of writ petition. Meaning thereby, the petitioner got notice of convening of no-confidence motion against her on specified date, place and time. Further, the date of notice shows that notice was issued on 14.07.2203 whereas meeting of no-confidence was fixed on 26.07.2023, which satisfies other requirements also as mentioned in Rule

> 3 (3) of the Rules, 1994. Petitioner has not submitted any document or affidavit of other Panchas along with writ petition to substantiate the submission that other Panchas have also not received notice. In absence of any material, the oral submission of counsel for the petitioner cannot be accepted.**"**

9. Reverting to the facts of the present case, on perusal of the record reveals that the Sub-Divisional Officer-cum-Prescribed Authority has duly complied with the procedure prescribed under the Act of 1993 and Rules of 1994. The proposal for moving the motion of no confidence was duly verified, and upon being satisfied that it was supported by the requisite number of *Panchas* and fulfilled the statutory requirements, the Prescribed Authority passed the order dated 13.07.2026 in accordance with Rule 3(3) of the Rules, 1994.

10. Further, in view of the Full Bench decision of the Madhya Pradesh High Court in ***Bhulin Dewangan (supra)***, the petitioner has failed to establish that any prejudice has been caused to her on account of the alleged procedural irregularities. There is nothing on record to demonstrate that any mandatory statutory requirement has been violated so as to vitiate the proceedings. Even otherwise, it is well settled that unless substantial prejudice is shown to have been caused to the affected party or to any other person having a substantial interest in the proceedings, the action

is not liable to be invalidated merely on the basis of technical or procedural objections.

11. In view of the aforesaid discussion, this Court is not inclined to exercise its supervisory jurisdiction under Article 227 of the Constitution of India to interfere with the proceedings relating to the motion of no confidence. Accordingly, the petition, being devoid of merit, is hereby dismissed.

Sd/-

(Amitendra Kishore Prasad)
Judge

ABHIGYA SAXENA
Digitally signed by ABHIGYA SAXENA
Saxena