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**IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)**

**WRIT APPEAL NO. 973 / 2012**

**APPELLANT  
RESPONDENT NO. 7**

Manoj Gupta, son of Shri Keshav Prasad Gupta, aged about 36 years, resident of Konchara, Post Mitthu Nawagaon, District Bilaspur, Chhattisgarh

**VERSUS**

**RESPONDENTS  
RESPONDENTS**

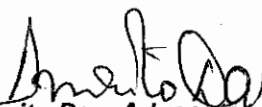
R. No. 973/12  
Presented by Shri. Amrito Das  
dated 9/8/12

1. State of Chhattisgarh, through the Secretary Panchayat and Tribal Welfare Department, D.K.S. Bhawan, Raipur, Chhattisgarh
2. The Additional Collector, Bilaspur, District Bilaspur, Chhattisgarh
3. The Janpad Panchayat Kota, through the Chief Executive Officer, District Bilaspur, Chhattisgarh
4. Sandeep Shukla, son of Shri Shriniwas Shukla, aged about 32 years, Occupation - President Janpad Panchayat Kota, District Bilaspur, Chhattisgarh
5. Babulal Spat, son of Shri Rama, Caste Dhanwar, Member of Janpad Panchayat Kota, resident of Village and Post Khongsara, District Bilaspur, Chhattisgarh
6. Isha Paikra, wife of Prahlad, Member of Janpad Panchayat Kota, resident of Village Nagoi, Post Tenganmada, District Bilaspur, Chhattisgarh
7. Chunni Lal Kaiwart, son of Shri Putalram Kewat, Member of Janpad Panchayat Kota, resident of Sonpuri, Post Tenganmada, District Bilaspur, Chhattisgarh

  
Amrito Das, Advocate

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8. Balkunwar Ureti, wife of Surendra Singh, Member of Janpad Panchayat Kota, resident of Village Silpahari, Post Kenda, District Bilaspur, Chhattisgarh
9. Raghuvir Singh Armo, son of Shri Pratap Singh Armo, Member of Janpad Panchayat Kota, resident of Village and Post Chhatauna, District Bilaspur, Chhattisgarh
10. Rajni, wife of Makhan Singh Dhruv, Member of Janpad Panchayat Kota, resident of Village Lufa (Lahagabhatha) Post Belgahana, District Bilaspur, Chhattisgarh
11. Gomati Bai Porte, wife of Sudarshan Singh Porte, Member of Janpad Panchayat Kota, resident of Village Ratkhadi, Post Manjhwani, Via Belgahana, District Bilaspur, Chhattisgarh
12. Anita, wife of Netram Sahu, Member of Janpad Panchayat Kota, resident of Village Semra, Post Chapora, District Bilaspur, Chhattisgarh
13. Nasim Bano Khan, wife of Yasin Khan, Member of Janpad Panchayat Kota, resident of Village and Post Podi, Via Ratanpur, District Bilaspur, Chhattisgarh
14. Ramesh Kumar Tanwar, son of Shri Vishnu Singh Tanwar, Member of Janpad Panchayat Kota, resident of Village Sekar, Post Umariya Dadar, District Bilaspur, Chhattisgarh
15. Arun Kaiwart, son of Shri Ishwar Prasad, Member of Janpad Panchayat Kota, resident of Village Karra, Post Jali, Tahsil Kota, District Bilaspur, Chhattisgarh
16. Ghanshyam Dixena, son of Shri Chhotelal Dixena, Member of Janpad Panchayat Kota, resident

  
Amrito Das, Advocate

of Village Sheesh, Tahsil Kota,  
District Bilaspur, Chhattisgarh

17. Sadhelal Bhardwaj, son of Shri Veer Singh, Member of Janpad Panchayat Kota, resident of Village Duma, District Bilaspur, Chhattisgarh
18. Lalita Devangan, wife of Vijay Kumar Devangan, Member of Janpad Panchayat Kota, resident of Ranigaon, Tahsil Kota, District Bilaspur, Chhattisgarh
19. Shiv Kumar Khusro, son of Sukhdev, Member of Janpad Panchayat Kota, resident of Village Majgawan, District Bilaspur, Chhattisgarh
20. Smt. Surekha Uikey, wife of Harkumar, Member of Janpad Panchayat Kota, resident of Village and Post Bhaisajhar, District Bilaspur, Chhattisgarh
21. Jawahar Dhruv, son of Goura Ram, Member of Janpad Panchayat Kota, resident of Village and Post Amali, District Bilaspur, Chhattisgarh
22. Ganga Bai Yadav, wife of Chandrashekhar, Member of Janpad Panchayat Kota, resident of Village Sajapali, Gram Panchayat Gobripat, District Bilaspur, Chhattisgarh
23. Ravindra Jagat, son of Gariba, Member of Janpad Panchayat Kota, resident of Village Manpur, Post Parsada, District Bilaspur, Chhattisgarh
24. Smt. Ragini Dhruv, wife of Baldev, Member of Janpad Panchayat Kota, resident of Village Kusmuli, Post Koskatthi, Tahsil Kota, District Bilaspur, Chhattisgarh
25. Smt. Sachi Bai Jaiswal, wife of Santosh, Member of Janpad Panchayat Kota, resident of Village and Post Dhuma

  
Amrito Das, Advocate

Shantipur, Tahsil Kota, District  
Bilaspur, Chhattisgarh

26. Jambai Kurre, wife of  
Ramchandra, Member of Janpad  
Panchayat Kota, resident of  
Village Tendua, Post Matsagara,  
Tahsil Kota, District Bilaspur,  
Chhattisgarh

**APPEAL TO DIVISION BENCH UNDER SECTION 2(1) OF THE  
CHHATTISGARH HIGH COURT (APPEAL TO DIVISION BENCH) ACT 2006  
READ WITH RULE 158(10) OF THE CHHATTISGARH HIGH COURT RULES  
2007**

12-07-2012 (ANNEXURE A-1) passed by the



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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Division Bench: Hon. Mr. Yatindra Singh, Chief Justice & Hon. Mr. Radheshyam Sharma, J.**

**W.A.No. 973 of 2012**

**Appellant** : Manoj Gupta.  
**Respondent No.7**

**Versus**

**Respondents** : State of Chhattisgarh and others  
**Respondents**

**APPEAL TO DIVISION BENCH UNDER SECTION 2 (1) OF THE CHHATTISGARH HIGH COURT (APPEAL TO DIVISION BENCH) ACT, 2006 READ WITH RULE 158 (10) OF THE CHHATTISGARH HIGH COURT RULES, 2007**

**PRESENT :-**

Shri P.S.Koshy with Shri Amrito Das, counsel for the appellant.  
Shri Arun Sao, Government Advocate for the State/respondents No. 1 & 2.  
Shri Sandeep Dubey, counsel for respondents No.3.  
Dr. Rajesh Pandey, counsel for respondent No.4.  
Shri Keshav Dewagan, counsel for respondents No. 5 to 7, 10, 13, 15, 16, 18 to 21, 22, 24 and 26.  
None for other respondents.

**JUDGMENT**  
**(30.11.2012)**

Shri Sandeep Shukla, (the contesting Respondent) was elected as President of Janpad Panchayat Kota (the Janpad Panchayat). An application under section 28 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (the Act) was filed before the Collector, Bilaspur (the Collector) on 29.03.2011 to convene the meeting to consider the motion of no confidence against the contesting respondent. The Collector marked the application to be processed by the Additional Collector, Bilaspur (the Additional Collector).

2. The Additional Collector passed an order on 01.04.2011 convening the meeting on 09.04.2011 to consider the motion of no confidence against the contesting Respondent.

3. The contesting Respondent filed a Writ Petition being W.P.(C) No.1931/2011 against the order convening the meeting to consider the motion of no confidence against him.

4. In the aforesaid writ petition, an interim order was passed on 08.04.2011 to the effect that meeting may be convened, however, its result may not be given effect to.

5. The Writ Petition was allowed by the Single Judge on 12.07.2012. Hence, this writ appeal.

6. We have heard Shri P.S.Koshy with Shri Amrito Das, learned counsel for the petitioner, Shri Arun Sao, learned G.A. for the State, Shri Sandeep Dubey, learned counsel for respondent No.3, Dr. Rajesh Pandey, learned counsel for respondent No.4 and Shri Keshav Dewangan, learned counsel for respondents No. 5 to 7, 10, 13, 15, 16, 18 to 21, 22, 24 and 26.

7. The State Government has framed the Rules called as 'the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zilla Panchayat Ke President Tatha Vide-President Ke Virudh Avishwas Prastav) Niyam, 1994 (the Rules) for moving and considering the motion of no confidence against the President and the Vice-President. In Rule 3 of the 1994 Rules, the notice for motion of no confidence is to be given to the Prescribed Authority.

8. The word 'Prescribed Authority' is also defined under Section 2 (xxi) of the Act. It means the authority that has been notified as the 'Prescribed Authority' for that provision.

9. The State Government has, from time to time, notified Prescribed Authorities for different sections. The Notification, which is applicable in case of the petitioner, is dated 13.05.2003 (the Notification).

10. In the Notification, the 'Collector' is mentioned as 'Prescribed Authority' under Section 28 (2) of the Act. In view of the same, the meeting had to be convened by the Collector itself and not by anyone else.

11. The counsel for the appellant submits that:

- the application to consider to convene the meeting of no confidence was filed before the Collector;
- The Collector sent it to the Additional Collector for processing of the application as under the Panchayat Raj Adhiniyam, he is the one who looks after the work;
- In any case, the resolution has already been passed and unless the petitioner shows the prejudice, the writ petition could not be allowed.

12. The Notification shows that for certain sections, only the Collector is the Prescribed Authority and for some sections, Collector/Additional Collector are the Prescribed Authorities. But so far as under Section 28 (2) is concerned, it shows that only the Collector is the Prescribed Authority.

13. In view of above, it was the Collector, who could convene the meeting; it is he, who is required to be satisfied for holding a meeting and not the Additional Collector.

14. The law relating to election and convening the meeting is a technical law. It is to be decided on the statutory provisions. In the present case, under the statutory provision, it was the Collector, who was the Prescribed Authority and could have convened the meeting. In view of the same, there is no illegality in the order of Single Judge in setting aside the meeting and once the meeting is set aside, all the results thereof are also set aside.

15. We have already quashed the notice convening the meeting; the meeting is also set aside with it. In view of the same, it will be open to the members of the Janpad Panchayat to file a fresh application before the Collector to convene the meeting to consider the motion of no confidence.



In case such an application is filed, the Collector himself will convene the meeting in time. We also make it clear that as the convening of meeting was quashed by us, the bar of holding fresh meeting will not apply.

16. With the aforesaid observation, the writ appeal is decided.

Sd/-  
Chief Justice

Sd/-  
R.S. Sharma  
Judge