

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL SEAT AT
JABALPUR**

Case No.	W.P. No.22731/2017
Parties Name	<i>Smt. Sunita Bai Chaudhary</i> vs. <i>Omkar Singh & others</i>
Date of Judgment	01/03/18
Bench Constituted	Single Bench
Judgment delivered by	Justice Sujoy Paul
Whether approved for reporting	YES
Name of counsels for parties	Petitioners: Mr. Parmendra Singh, Advocate Respondent/State: Mr. Rajesh Tiwari, Government Advocate Respondents No.1 to 20: Mr. Anshuman Singh, Advocate
Law laid down	<u>Principle of Interpretation of Statute-</u> Each word, phrase or sentence is to be construed in the light of general purpose of the Act. If meaning of statute is plain and unambiguous, it should be given effect to irrespective of consequence. <u>Section 21 (3) of M.P. Panchayat Raj Avam Gram Swaraj Adhiniyam 1993-</u> The first no confidence motion was initiated before completion of two and half years from the date Sarpanch entered her office. This motion was not tenable and was not rejected by the Competent Authority. Second no confidence motion was initiated after two and half years and this motion is maintainable because previous motion was not rejected.
Significant paragraph numbers	8, 9, 10

(Order)
01.03.2018

The singular interesting question involved in this case is whether the 2nd No Confidence Motion initiated against the petitioner without rejecting the 1st

No Confidence Motion was entertainable in the teeth of Section 21 of the M.P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993.

2. The relevant facts of this case are within the narrow compass. Petitioner was elected as Sarpanch on 22.02.2015. The first No Confidence Motion was initiated against her on 18.08.2017. The competent authority did not take any decision on this motion dated 18.08.2017. Another No Confidence Motion dated 28.09.2017 was filed which was entertained and consequently impugned order was passed.

3. Mr. Pramendra Singh criticized the action of the competent authority in entertaining the 2nd No Confidence Motion by contending that 1st No Confidence Motion was filed within 2 ½ years' from the date of election of petitioner. The petitioner filed his objection against this first motion. The competent authority did not decide the said objection either-way. During the pendency of first motion, the second motion was entertained which runs contrary to the legislative mandate ingrained in Sub-section (3) of Section 21 of the Act of 1993.

4. *Per-contra*, Mr. Rajesh Tiwari, learned G.A. and Mr. Anshuman Singh, learned counsel for the private respondents supported the impugned order. They submit that the language of Sub-clause (iii) of Sub-section (3) of Section 21 is clear that second motion is not tenable if it is filed within six months' from the date on which previous motion of no confidence was rejected. Since previous motion was not tenable, the question of its rejection does not arise. Had it been rejected by passing an express order, till completion of next six months from that date, the second motion was not entertainable. Reliance is placed on the Rules of 1994 relating to issuance of No Confidence Motion. It is submitted that no decision has been taken on the first motion and, therefore, by no stretch of imagination it can be presumed that first motion was rejected. The second motion was admittedly filed after 2 ½ years' and, therefore, the competent authority has not committed any legal error in entertaining the 2nd No Confidence Motion.

5. No other point has been pressed by parties.

6. I have heard the parties at length and perused the record.

7. Before dealing with the rival contentions of the parties, it is apposite to quote Section 21 of the Act of 1993 which reads as under:

“21. No-confidence motion against Sarpanch and Up-Sarpanch. -

(1) *On a motion of no-confidence being passed by the Gram Panchayat by a resolution passed by majority of not less than three fourth of Panchas present and voting and such majority is more than two third of the total number of Panchas constituting the Gram Panchayat for the time being, the Sarpanch or Up-Sarpanch against whom such motion is passed, shall cease to hold office forthwith.*

(2) *Notwithstanding anything contained in this Act or the rules made thereunder- a Sarpanch or an Up-Sarpanch shall not preside over a meeting in which a motion of no-confidence is discussed against him. Such meeting shall be convened in such manner as may be prescribed and shall be presided over by an officer of the Government as the Prescribed Authority may appoint. The Sarpanch or the Up-Sarpanch, as the case may be, shall have a right to speak at, or otherwise to take part in, the proceeding of the meeting.*

(3) *No-confidence motion shall not lie against the Sarpanch or Up-Sarpanch within a period of,-*

(i) *[two and half 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) *[six months] from the date on which previous motion of no-confidence was rejected.*

[(4) *If the Sarpanch or the Up-Sarpanch, as the case may be, desires to challenge the validity of the motion carried out under sub-section (1), he shall, within seven days from the date on which such motion was carried, refer the dispute to the Collector who shall decide it, as far as possible, within thirty days from the date on which it was received by him, and his decision shall be final.]”*

(Emphasis supplied)

8. The golden rule of interpretation of statute is that “each word, phrase or sentence” as observed by “Mukherjea, J.” is to be construed in the light of general purpose of the Act itself. [See *AIR 1953 SC 274 (Poppatlal Shah vs. State of Madras)*]. In *(2012) 4 SCC 463 (Union of India vs. P.S. Gill)*, it was reiterated that each word used in the enactment must be allowed to play its role, however significant or insignificant the same may be in achieving the legislative intent and promoting the legislative object. [See also Page 14 and 42 Principles of Statutory Interpretation by Justice G.P. Singh (14th Edition)]. In *1987 (1) SCC 424 (Reserve Bank of India vs. Peerless General Finance & Investment Co.*

Ltd.) Chinnappa Reddy, J. emphasized that every word used in the statute is important and opined as under:-

“If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation.”

(Emphasis supplied)

The said principle is consistently followed in **(2007) 3 SCC 700 (National Insurance Co. Ltd. vs. Laxmi Narain Dhut)**, **(2015) 10 SCC 369 (State of W.B. vs. R.K.B.K. Ltd.)**, **(2017) 4 SCC 202 (Rajendar Bansal vs. Bhuru)** and **(2017) 10 SCC 713 (State of Maharashtra vs. Reliance Industries Ltd.)**.

9. In the instant case, as noticed, the first no confidence motion was admittedly filed before completion of two and half years from the date on which Sarpanch entered her office. Thus, the first no confidence motion was not entertainable. The first no confidence motion was, therefore, not rejected. Clause (iii) of Sub-section 3 of Section 21 clearly provides that second motion from the date on which previous motion of non-confidence was rejected, shall not lie. The expression “from the date no confidence was rejected” is very important. In the present case, previous motion of no confidence was never rejected. It appears that the purpose behind putting an embargo/time limit of six months from presenting another motion of no confidence is to give opportunity to the Sarpanch/Up-Sarpanch to improve their performance in order to gain confidence of the Panchas. A conjoint reading of various clauses of Section 21 makes it abundantly clear that first motion of no confidence cannot be initiated before completion of two and half years from the date the Sarpanch/Up-Sarpanch entered their respective office. The no confidence motion cannot be initiated within six months preceding the date on which term of office of Sarpanch/Up-Sarpanch is going to expire.

10. In the present case, the second no confidence motion is not hit by any of the Clauses of Sub-section 3. The Sub-clause (iii) is not attracted because the prohibition on submission of another motion is applicable when previous no confidence motion was rejected. The word “rejected” must be given full play. This is trite law that if meaning of statute is plain and unambiguous, it should be given effect to irrespective of consequences. [*See (1992) 4 SCC 711 (Nelson Motis vs. Union of India)*]

11. In the light of aforesaid analysis, I am unable to hold that second no confidence motion was not maintainable. Resultantly, no fault can be found in the order dated 11-12-2017 whereby the second no confidence motion was entertained. The petition is meritless and is hereby dismissed. No cost.

(Sujoy Paul)
Judge

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