

**(2018) 06 CHH CK 0077**

**Chhattisgarh High Court**

**Case No:** WA No. 205 Of 2018

Kriparam Patel

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

**Date of Decision:** June 19, 2018

**Acts Referred:**

- Chhattisgarh Panchayat Niyam, 1994 - Rule 3(3)

**Hon'ble Judges:** Thottathil B. Radhakrishnan, CJ; Parth Prateem Sahu, J

**Bench:** Division Bench

**Advocate:** Sunil Sahu, Yashwant Singh Thakur, Amrito Das

**Final Decision:** Dismissed

### **Judgement**

Thottathil B. Radhakrishnan, CJ

1. We have heard the learned counsel for the Appellant, the learned Additional Advocate General and the learned counsel for Respondent No.7.

2. The Respondent No.7 was the elected Sarpanch of Gram Panchayat Hatoud. A no-confidence motion was moved against him. Notice of that

motion was given on 2.8.2017. The meeting to consider that no-confidence motion was convened on 17.8.2017. The motion was carried. That was

challenged by the 7 th Respondent/Ashok Kumar Patel before the Collector. That failed. Then, he sought remedy from the Commissioner on the

strength of a judgment issued by this Court. The Commissioner interfered and remitted the matter for reconsideration of the no-confidence motion.

3. Kriparam Patel/Appellant who piloted the no-confidence motion moved the writ Court. The 7th Respondent/Ashok Kumar Patel who faced the no-

confidence motion also moved the writ Court. The learned Single Judge dismissed both the writ petitions.

4. In this appeal by Kriparam Patel/Appellant, the fundamental argument is that Rule 3(3) of the Chhattisgarh Panchayat (Gram Panchayat Ke

Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam,

1994; for short '1994 Rules', has been misinterpreted. The next plea is that having regard to the finality of the Collector's decision in terms of the

statutory provision, the Commissioner does not have jurisdiction to entertain any revision. There is also the contention that the Commissioner does not

have the power to remand.

5. There was no interlocutory order during the pendency of the writ petition. It appears that the matter was decided at the threshold. There was no

interlocutory order in this writ appeal as well. In the meanwhile, following the Commissioner's order, the no-confidence motion was again considered

by convening meeting. The no-confidence motion failed. With such fact situation occurring during the pendency of this writ petition and writ appeal, in

a matter relating to a democratic body, namely, the Gram Panchayat, we do not think that it would be appropriate for us to disturb the present situation

through an intra Court appeal in writ jurisdiction. We therefore decline to interfere in this matter.

6. However, we may hasten to add that we cannot but leave open the plea of the Appellant/writ Petitioner regarding the interpretation of Rule 3(3) of

the 1994 Rules as reflected in Paragraph-13 of the impugned judgment. We also leave open the question as to whether the Commissioner had the

authority to entertain a revision against the Collector's order and, still further; even if so, whether the Commissioner has the power to remand. While

we leave open all those issues, we clarify that the situation obtained as of now is not being interfered with only for the reasons stated in the preceding

paragraph.

7. In the result, the writ appeal is dismissed subject to what is stated hereinabove.