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**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.A. NO.1367 OF 2025**

An appeal challenging order dated 01.08.2025 passed by a learned Single Judge of this Court in WP(C) No. 31072 of 2024.

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**Nabanita Kapat Patra** ..... **Appellant**

-Versus-

**Collector, Kandhamal & Anr.** ..... **Respondents**

**Advocates appeared in this case:**

For Appellant : M/s Gopinath Mishra & P.P. Mohanty,  
Advocates

For Respondents: Mr. Sabita Ranjan Pattanaik,  
Addl. Govt. Advocate [R Nos.1 & 2]

M/s Upendra Kumar Samal, M.R.  
Mohapatra, S.P.Patra & N. Samal,  
Advocates [R Nos. 3 to 11]

**CORAM:**

**THE HON'BLE MR. JUSTICE K.R. MOHAPATRA,  
THE HON'BLE MR. JUSTICE DIXIT KRISHNA SHRIPAD  
THE HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI**

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Date of hearing :12.11.2025 :: Date of judgment: 29.11.2025

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**PER DIXIT KRISHNA SHRIPAD, J.**

In this intra-Court appeal, interpretation of Section 24 of the Orissa Grama Panchayat Act, 1964 had fallen for consideration before a Division Bench of this Court. Arguably, two conflicting decisions rendered by two different Division Benches were cited at the Bar on the question involved. That is how, present reference is made to this Bench, vide order dated 13.08.2025, which is self-explanatory and therefore reproduced below:

*“1. The point involved in the instant writ appeal pertains to the interpretation of Section 24 of the Odisha Gram Panchayats Act, 1964 (for short, "the OGP Act").*

*2. According to the appellant, the modalities and/or the requirements appearing from the said provision of the OGP Act shall be strictly adhered to and any departure therefrom would entail the action of the authority liable to be quashed and set aside. In pursuit of the same, a reliance was placed upon a Division Bench judgment of this Court in Prahallad Dalai vs. State of Odisha, reported in AIR 2014 Orissa 179, wherein it is held that the copy of the Resolution and the requisition are twin mandatory conditions and departure from any such condition would make the Notice issued by the Sub-Collector invalid.*

*3. Our attention is further drawn to an unreported judgment of the Division Bench of*



*this Court (one of us is a party), delivered on 15th April, 2025 in W.A. No.3473 of 2024 (Pramod Kumar Sahu Vs. State of Odisha and others), wherein harmonious construction was adopted and the intention of the Legislature can be reasonably inferred and/or seen therefrom. The technicality should not overweigh the fairness and the transparency in the system. We thus find that both the judgments to some extent run counter to each other and, therefore, this Bench feels that it would be proper that the matter be referred to a larger Bench to decide, whether the 'requisition' and the 'Resolution' appearing in Section 24 of the OGP Act invites any stringent interpretation that the 'requisition' and the 'Resolution' must be separate and distinct from each other or a harmonious construction is required to be adopted where the purpose of requisition relating to no confidence motion against the Sarpanch is evidently manifest therefrom and the Ward Members are made aware of the Resolutions as well as the Agenda of the said meeting.*

*4. Let the matter be placed before the Hon'ble the Chief Justice to constitute a larger Bench.”*

## **2. Foundational facts of the case:**

**2.1.** Appellant herein is the elected Sarpanch of Hatimunda Grama Panchayat, Daringbadi Block, Kandhamal district. This Grama Panchayat comprises of fourteen (14) Ward Members. Of them, eight (8) had



proposed a No Confidence Motion and accordingly a draft resolution came to be passed on 20.09.2024. They sent a requisition to the Sub-Collector on 08.10.2024 requesting him to convene the Panchayat meeting for formalizing the No Confidence Motion.

**2.2.** On receipt of the requisition, the Sub-Collector, Balliguda instructed the Block Development Officer of Daringbadi Block to enquire & ascertain genuineness of the proposal for No Confidence. The BDO, on 27.11.2024, reported that the subject proceedings were genuine. On 29.11.2024, the Sub-Collector sent a notice, along with requisition, to all the Grama Panchayat Members, including the Appellant herein, scheduling the meeting for 16.12.2024. He had designated the jurisdictional Tahasildar to be the Presiding Officer for the meeting in contemplation.

**2.3.** Appellant filed WP(C) No.31072 of 2024 laying a challenge to the above notice dated 29.11.2024 *inter alia* on the ground that the same was not accompanied by the proposed resolution, and therefore the same is vitiated. A



learned Singe Judge, vide ad interim order dated 13.12.2024 granted a conditional reprieve, in the following words:

*“...3. Since, the State is not ready with the response and as Mr.Mohanty, learned ASC has been allowed further time to file the same, this Court, as an interim measure, though not inclined to stay the impugned Notice i.e. Annexure-1 but is of the view that the motion should take place without the result of the same being published till the next date and accordingly, it is directed.....”*

Thereafter, nine elected Ward Members had moved intervening applications in the petition.

**2.4.** The petition was heard and dismissed, vide order dated 01.08.2025, wherein the following observations occur:

*“.....Having considered the above facts and submissions of learned counsel for the respective parties and considering the counter of opposite party no.2, it is clear and conspicuous that a Resolution was held on the date fixed by the Ward Members and it was followed by a requisition and upon receiving such requisition, opposite party no.2 said to have issued the impugned Notice i.e. Annexure-1 accompanied with the copies of the Resolution and requisition.’*



On the following day, i.e., 02.09.2025, the No Confidence Motion was passed by 2/3<sup>rds</sup> of the Members and the Appellant came to be voted out of office.

**3. Contentions of the parties:**

**3.1.** Learned counsel appearing for the Appellant drawing our attention to the provisions of Section 24 of the 1964 Act argued that the law relating to election is of special features and it is what the statute says, namely, the said Act; clause (c) of Sub-Section (2) mandates that the contemplated notice has to be accompanied by both a copy of the requisition and a copy of the proposed resolution; in the instant case a copy of the resolution having not been sent to his client, the Motion of No Confidence passed on the basis of inherently defective notice, is vitiated. So arguing, he seeks invalidation of learned Single Judge's order and for allowing the Writ Petition. In support of his submission, certain rulings are pressed into service.

**3.2.** Per Contra, learned AGA appearing for the official respondents and learned Advocate representing the private



respondents contended that: The provisions of Section 24 of the Act should receive a harmonious construction; non-accompaniment of proposed resolution would not affect the validity of notice, since appellant had full knowledge; clause (c) of Sub-Section (2) of this Section, being directory, its non-compliance does not vitiate the subject notice; this clause enacts only the principles of natural justice which have been substantially complied with; the ousted Sarpanch, having understood the content & intent of notice accompanied by requisition, has not suffered any demonstrable prejudice; the decisions cited on behalf of the Appellant are *per incuriam*. So contending, he prayed for the dismissal of Appeal, citing certain rulings to adumbrate his position.

**4.** We have heard learned counsel for the parties and perused the appeal papers, along with their Written Submissions. We have also examined relevancy of the rulings cited at the Bar and more particularly those on which the Reference Order is structured. It solicits the



answer to the questions raised. Having done our collective exercise, we are answering the Reference as under and for the following reasons:

**4.1. As to the nature & content of notice and its enclosures.**

(i) The jugular vein of the case is the notice of No Confidence Motion dated 29.11.2024. The same in vernacular reads as under:

“ବିଷୟ: ହାତିମୁଣ୍ଡା ଗ୍ରାମ ପଞ୍ଚାୟତର ସରପଞ୍ଚ ଶ୍ରୀମତୀ ନବନିତା କପାଟପତ୍ର ଙ୍କ ଅନାସ୍ଥା ପ୍ରସ୍ତାବ ନିମନ୍ତେ ସ୍ୱତନ୍ତ୍ର ବୈଠକ |

ମହାଶୟ/ ମହାଶୟା,

ଉପରୋକ୍ତ ବିଷୟ ପ୍ରତି ଧ୍ୟାନ ଆକର୍ଷଣ କରି ଜଣାଇ ଦିଆଯାଉଅଛିଯେ ଆସନ୍ତା ତା । ୧୭.୧୨.୨୦୨୪ ସମୟ ଘ. ୧୧.୦୦ ମିନିଟ ସମୟରେ, ହାତିମୁଣ୍ଡା ଗ୍ରାମ ପଞ୍ଚାୟତ ର ସରପଞ୍ଚ ଶ୍ରୀମତୀ ନବନିତା କପାଟପତ୍ର ଙ୍କ ବିପକ୍ଷରେ ଆସିଥିବା ଅନାସ୍ଥା ପ୍ରସ୍ତାବ ଉପରେ ଆଲୋଚନା ସହ ଗୁପ୍ତଭୋଟ ଗ୍ରହଣ ପ୍ରିଜାଇଣ୍ଟିଙ୍ଗ ଅଫିସର ଶ୍ରୀ ଶରତ ଶବର, OAS-I (JB), ତହସିଲଦାର, ଦାରିଙ୍ଗବାଡ଼ି ଙ୍କ ଉପସ୍ଥିତିରେ ସ୍ୱତନ୍ତ୍ର ବୈଠକ ପରିଚାଳନା କରାଯିବ । ଏଥିସହିତ ହାତିମୁଣ୍ଡା ଗ୍ରାମ ପଞ୍ଚାୟତ ର ଷାଠି ସଭ୍ୟ / ସଭ୍ୟାମାନଙ୍କର ବରାଦି ପତ୍ର ସଲଗ୍ନ କରାଯାଇ ନିର୍ଦ୍ଧାରିତ ତାରିଖ ଓ ସମୟରେ ହାତିମୁଣ୍ଡା ଗ୍ରାମ ପଞ୍ଚାୟତ କାର୍ଯ୍ୟାଳୟ ରେ ଆପଣ ଉପସ୍ଥିତ ରହି ସ୍ୱତନ୍ତ୍ର ବୈଠକ ରେ ଭାଗନେବା ପାଇଁ ଅନୁରୋଧ କରାଗଲା

ଏହା ଅତ୍ୟନ୍ତ ଜରୁରୀ ଅଟେ |”



The near English version of this notice is as follows:

“Sub: Special Meeting for No Confidence Motion against Smt. Nabanita Kapat Patra, Sarpanch, Hatimunda Grama Panchayat.

Sir/Madam

Drawing attention to the above noted subject, it is hereby informed that on 16.12.2024 at 11:00 hours, a discussion with secret ballot will be held on No Confidence Motion against Smt. Nabanita Kapat Patra, Sarpanch of Hatimunda Grama Panchayat, in a Special Meeting in the presence of the Presiding Officers Sri Sarat Sabar, OAS-I (JB) and the Tahsildar, Daringbadi. Enclosed herewith is a proposed resolution of Ward Member/ Members of Hatimunda Grama Panchayat. Your presence in the special meeting on the scheduled date & time is requested.

It is most urgent.”

(ii) There is a broad consensus at the Bar that the Odia term ‘ପ୍ରସ୍ତାବ ନିର୍ଦ୍ଧାରଣ’, i.e., ‘*resolution proposed*’ is conspicuously absent in the subject notice. Even otherwise, it can be reasonably gathered from the contents of said notice that it was not accompanied by a copy of draft resolution that was proposed in the meeting held on 20.09.2024, although a copy of ‘requisition’ was enclosed to



the notice. It is in this context, the said notice is assailed by the Appellant. Learned AGA appearing for the official Respondents and learned Counsel representing the private Respondents contended that notice of the kind is valid even when it is not accompanied by a copy of the ‘*resolution proposed*’. They submitted that the notice was accompanied by a copy of the requisition and that would serve the purpose of notice.

**4.2. As to what the statutory provisions say:**

Both the learned counsel appearing the parties heavily banked upon the text of Section 24(1) & Clauses (a) to (e) of Sub-Section (2) of 1964 Act and therefore, the same are reproduced for the ease of perusal:

**“24. Vote of no confidence against Sarpanch or Naib -Sarpanch :-** (1) *Where at a meeting of the Grama Panchayat specially convened by the Sub-divisional Officer in that behalf a Resolution is passed, supported by a majority of not less than two-thirds of the total membership of the Grama Panchayat, regarding want of confidence in the Sarpanch or Naib-Sarpanch the Resolution shall forthwith be forwarded by the Sub-Divisional Officer to the Collector, who shall immediately on receipt of the Resolution publish the same on his Notice-board and with effect from the date of such Publication the member holding the Office of*



*Sarpanch or the Naib-Sarpanch, as the case may be, shall be deemed to have vacated such Office.*

*(2) In convening a meeting under Sub-Section (1) and in the conduct of business at such meeting the procedure shall be in accordance with such rules, as may be prescribed, subject however to the following provisions, namely :*

*(a) no such meeting shall be convened except on a requisition signed by at least one-third of the total membership of the Grama Panchayat along with a copy of the resolution proposed to be moved at the meeting;*

*(b) the requisition shall be addressed to the Sub-divisional Officer;*

*(c) the Sub-Divisional Officer on receipt of such requisition shall fix the date, hour and place of such meeting and give Notice of the same to all the members holding Office on the date of such Notice along with a Copy of the requisition and of the proposed Resolution, at least fifteen clear days before the date so fixed;*

*(d) the aforesaid Notice shall be sent by post under Certificate of posting and a Copy thereof shall be published at least seven days prior to the date fixed for the meeting in the Resolution-board of the Samiti;*

*(e) the proceedings of the meeting shall not be invalidated merely on the ground that the Notice has not been received by any member;....”*

**4.3. A Thumbnail description of above statutory provisions:**

(i) Sub-Section (1) of Section 24 provides for the removal of Sarpanch or Naib Sarpanch. Sub-Section (2) prescribes the operational procedure therefor. For the purpose of this case, advertence to clauses (a) to (e) of Sub-



Section (2) would suffice. A conjoint reading of these provisions lead to the following summary: There should be want of confidence in the Sarpanch/Naib Sarpanch. A draft resolution should be passed to that effect, by not less than 1/3<sup>rd</sup> of the total membership of Grama Panchayat. A requisition shall be sent to the Sub-Divisional Officer for convening the meeting of No Confidence Motion. The requisition should accompany the draft resolution.

(ii) The Sub-Divisional Officer shall issue Notice to all the Members fixing the date, hour & place of such meeting. The Notice should be at least of fifteen (15) clear days. The Notice should be accompanied by a copy of requisition & of draft resolution. The mode of service of Notice is by certificate of posting. In addition, a copy of Notice shall be published on the Notice Board of Panchayat seven (7) days prior to the scheduled date of meeting.

(iii) Let us elaborate little more on Sub-Section (1) of Section 24: This provision has certain building blocks, such as 'meeting specially convened', 'resolution is passed', not



less than 2/3<sup>rds</sup> of the total membership'; 'Sub-Divisional Officer forwarding the resolution to the Collector', 'the Collector immediately publishing the resolution on his Notice Board'; 'deemed vacation of office', etc. The textual meaning of this Section is as clear as Gangetic waters. Same is the case with clauses (a) to (e) of Sub-Section (2) as well.

**4.4. As to whether Section 24(2)(c) of the Act is mandatory:**

(i) The bone of contention between the parties is as to the meaning of clause (c) of Sub-Section (2), which *inter alia* states that the Sub-Divisional Officer, on requisition, '**shall give notice**' to all the Members of Panchayat, 'along with a copy of the requisition **and of the proposed resolution**'. Notice is not valid if it is not accompanied by the 'proposed resolution', is the submission of Appellant's counsel, whereas notice is not vitiated merely because copy of 'proposed resolution' did not accompany it, is the retort of counsel representing the private Respondents. Both they



rely upon certain decisions which we would advert to, a little later. We agree with the proposition of Appellant's counsel because clauses (a) (b) (c) & (d) of Sub-Section (2) of Section 24 textually employ the word 'shall', there being no scope for reading it as 'may', regard being had to the serious implications such as, if the Motion succeeds, Sarpanch would be ousted from office once for all and he would not retain membership too.

(ii) Added to the above, the contention that notice sent with requisition *sans* copy of draft Resolution would suffice the requirement of Section 24(2)(c), if countenanced would render the statutory expression 'and of the proposed resolution' otiose. The sages of law have long been saying that every part and every word of a statute should be given its due meaning. In ***Poppatlal Shah v. The State of Madras***<sup>1</sup>, it has been reiterated in the following words:

*"It is a settled rule of construction that to ascertain the legislative intent, all the constituent parts of a statute are to be taken together and each word, phrase or sentence is*

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<sup>11</sup>. AIR 1953 SC 274.



*to be considered in the light of the general purpose and object of the Act itself....”*

(iii) Appellant is a popularly elected Sarpanch of the Panchayat by virtue of Section 10(1)(a) read with Section 4(1) of the 1964 Act, unlike the Naib Sarpanch mediately elected under Section 14(1). Removing a directly elected Sarpanch is a serious matter, inasmuch as it nullifies the popular mandate handed in an election that was periodically held for the office in question. It is notable that once No Confidence Motion succeeds, he ceases to be the Sarpanch and that he has no Membership credentials in the Panchayat. It is so because, he is elected directly from the voters of the entire constituency of the Panchayat concerned, and not by the collegium of elected Members, unlike the Naib-Sarpanch. In other words, he is rendered a *persona non grata* qua the Panchayat. This view gains support from Sub-Section (4) of Section 115 of the Act which has the following text:

*“(4). A Sarpanch or Naib-Sarpanch on removal from office under Sub-Section (1) shall also cease to be a member of the Grama Panchayat, and such person shall not be eligible for election as member for a period not exceeding four years as the State Government may specify.”*



Therefore, the prescription of procedure under the law providing for the removal of Sarpanch by way of No Confidence Motion, has to be construed as mandatory consistent with legislative policy content & intent.

(iv) As already mentioned, Sub-Section (2)(c) is clear & emphatic in prescribing the procedure for issuance of notice of No Confidence Motion. The structure is: Firstly, Notice should be a minimum of seven (7) days. Secondly, it should contain date, time & place of meeting. Thirdly, it should be accompanied by a copy of requisition. Fourthly, it should also be accompanied by a copy of 'resolution proposed'. This provision employing the expression '*such notice along with a copy of the requisition and of the proposed resolution*' has been continuing on the Statute Book since more than six decades. The Act has seen a plethora of amendments till now, but the text of this provision has conspicuously remained unaltered. Provisions of the kind are made in the accumulated legislative wisdom gained through years of experience. We add that when the text of a



statute is unambiguous, it does not admit any interpretation. It has to be taken as it is. Maxwell on 'The Interpretation of the Statutes'<sup>2</sup>, writes;

*“Where the language is plain and admits of but one meaning, the task of interpretation can hardly be said to arise.... Where, by the use of clear and unequivocal language capable of only one meaning, anything is enacted by the legislature, it must be enforced however harsh or absurd or contrary to common sense the result may be. The interpretation of a statute is not to be collected from any notions which may be entertained by the court as to what is just and expedient”*

#### **4.5. Election law is what the statute enacts:**

(i) Sub-Sections (1) & (2) of Section 24 of the Act in a sense enact a specific procedure for ousting *inter alia* an elected Sarpanch. The decision on No Confidence Motion is to be taken by secret ballot, as is mentioned in the impugned notice. Thus, on the floor of Panchayat, the elected Members cast their votes in the No Confidence Motion, which if succeeds, the Sarpanch will be ousted from office. Therefore, these provisions constitute a kind of

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<sup>2</sup>. Twelfth Edition by P. St. J. Langan, available at: Pg. 29.



election law relating to removal of Sarpanch by due process.

Ordinarily, law relating to election is, what the statute says

it to be, namely, the 1964 Act, herein. In **Jyoti Basu v. Debi**

**Ghosal**<sup>3</sup>, it is observed as under:

*“A right to elect, fundamental though it is to democracy, is, anomalously enough, neither a fundamental right nor a Common Law Right. It is pure and simple, a statutory right. So is the right to be elected. So is the right to dispute an election. Outside of statute, there is no right to elect, no right to be elected and no right to dispute an election. Statutory creations they are, and therefore, subject to statutory limitation. An Election petition is not an action at Common Law, nor in equity. It is a statutory proceeding to which neither the Common Law nor the principles of Equity apply but only those rules which the statute makes and applies. It is a special jurisdiction, and a special jurisdiction has always to be exercised in accordance with the statutory creating it. Concepts familiar to Common Law and Equity must remain strangers to Election Law unless statutorily embodied. A Court has no right to resort to them on considerations of alleged policy because policy in such matters as those, relating to the trial of election disputes, is what the statute lays down....”*

(ii) There is a finer aspect to the invocation of the above ruling: **Jyoti Basu** *supra* related to an election to the State Legislature, held inter alia under the provisions of the Representation of the People Act, 1951. Therefore, a question may arise as to the invocability of its ratio to the

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<sup>3</sup>. (1982) 1 SCC 691.



case at hand which involves de-election of a Sarpanch of the Panchayat. State Legislature is a constitutional institution under Article 168(1). Similarly, amendments to Part IX have been introduced by virtue of 73<sup>rd</sup> Amendment to the Constitution w.e.f 24.04.1993. Grassroot local bodies like Panchayats too have been conferred with constitutional status. Article 243(d) defines 'Panchayat' to mean an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas. Article 243B(1) reads:

*“There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part ....”*

(iii) We are aware that the nature, composition, stature & functions of Legislatures differ from that of Panchayats in degrees. But both are democratic institutions, cannot be disputed. Therefore, there is nothing wrong in drawing wisdom from the ratio of **Jyoti Basu** *supra* in construing the subject provisions of 1964 Act. We hasten to observe that *where a power is given to do a certain thing in a certain way,*



*the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden vide **Taylor v. Taylor**<sup>4</sup>. In the case at hand, a provision of statute namely, Section 24(2)(c) prescribes a particular procedure for accomplishing a particular task of serious nature, and there is no reason or rhyme for not following the said procedure.*

#### **4.6. As to conflicting decisions:**

The Reference Order, whereby the matter is placed at our hands, refers to two Division Bench decisions. Let us examine the same:

(i) In **Prahallad Dalai v State of Orissa**<sup>5</sup>, the notice dated 11.06.2014 issued by the 'Sub-Collector' under Section 24(2)(c) of the Act was accompanied by the proposed resolution for No Confidence Motion whereas a copy of requisition dated 30.05.2014 was not enclosed to the said notice. In the case at our hands, the notice is accompanied by a copy of the requisition but the copy of proposed

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<sup>4</sup>. 1875 LR 1 ChD 426.

<sup>5</sup>. AIR 2014 Ori 179.



resolution is not enclosed. However, this minor difference is not much significant to the view we are taking, inasmuch as Section 24(2)(c) prescribes that the notice should be accompanied by both a copy of requisition & a copy of proposed resolution. In stressing the requirement of Notice being accompanied by a copy of requisition, the said Bench has discussed *inter alia* about the text & context of Section 24(2)(a), as well. We are in agreement with this decision, since it broadly accords with our reasoning above.

(ii) Another Co-ordinate Bench in ***Pramod Kumar Sahu v. State of Odisha***<sup>6</sup> decided on 15.04.2025 at paragraph 15 observed as under:

*“We are unable to comprehend the contention of the appellant that the expression 'copy of the resolution' appearing in the aforementioned statutory provision is to be interpreted in a sense that it should be a part of annexure to the notice/requisition; in other words, such resolution must be recorded in a separate piece of paper and to accompany along with the notice. The purpose of the resolution having taken in the meeting to be accompanied with the copy of the notice is to be made known to all the members that the meeting would be held and the discussion shall be made on the agenda or the decision taken by the requisitioner in an earlier meeting pertaining to a no confidence against the Sarpanch. Such procedure is to ensure the fairness, transparency and the meaningful*

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<sup>6</sup>. W.A. No.3473 of 2024.



*discussions to be made on the proposed agenda of the resolution and none of the members should be put on surprise on the date of such meeting. The purpose is laudable as the authority convening the meeting has to ensure not only the strict compliance thereof but also to secure equal participation of the members for the meaningful discussion in the proposed meeting. There is no prescribed mode as of now that such resolution must be transcribed in the separate sheet as the interpretation sought to be made by the appellant if accepted would frustrate the legislative intent and would be opposed to the provisions relating thereto....”*

The logic & reason of these observations run counter to ours above. We cannot leave it unsaid that both the decisions lack in spectrum which we have discussed in so many words.

**4.7. As to miscellaneous submissions:**

(i) Learned Advocate appearing for the private Respondents vehemently submitted that the decision in **Prahallad Dalai** *supra* is *per incuriam* and therefore, it lacks the precedential force. This contention does not merit acceptance, notwithstanding that the said decision did not consider broader aspects of the matter which we have adverted to. However, in principle, it accords with our view, cannot be disputed. We also notice that Section 24(4) is



amended vide OGE No.1112 dated 27.06.2016. However, Section 24(2)(a) & (c), as construed in **Prahallad Dalai** *supra*, has not been meddled with. There is a strong presumption that the Legislature takes cognizance of decisions of constitutional Courts.

(ii) Learned Advocate lastly contended that the provisions of Section 24(2) have to be harmoniously construed, as has been done by the other Co-ordinate Bench in **Pramod Kumar Sahu** *supra*. Rules of harmonious construction have no scope for application to the case, inasmuch as we do not find any disharmony in or discordance between clauses (a) to (e) of Sub-Section (2) of Section 24, *inter se*. He also stressed on clause (e) of this Sub-Section for seeking shelter thereunder. We are not impressed, here too. Non-receipt of Notice by a Member is one thing and giving of Notice is another. Once notice is given, its validity has to be adjudged in the light of what has been prescribed *inter alia* under clauses (a) to (d) of Section 24(2). Where Notice has been given by the Sub-Divisional



Officer and it is received by the candidate concerned, the case does not travel to the precincts of clause (e) of Section 24(2).

In the above circumstances, the Reference having been accepted is answered as above.

Registry to place the matter at the hands of the Roster Bench for consideration.

**(K.R. Mohapatra)**  
**Judge**

**(Dixit Krishna Shripad)**  
**Judge**

**(Dr. Sanjeeb K Panigrahi)**  
**Judge**

*Orissa High Court, Cuttack*  
*The 29<sup>th</sup> day of November, 2025/PKS/GDS*