



IN THE HIGH COURT OF ORISSA AT CUTTACK

AFR

W.P.(C) No.28515 of 2025

Subhra Panda

....

Petitioner

Mr. M. Kanungo, Senior Advocate

-Versus-

State of Odisha & others

....

Opposite Parties

Mr. P.K. Sahoo, ASC

Mr.A.K. Nanda, Advocate for O.Ps.4 to 22

Mr.P. Chhinchani, Advocate for O.P.2

Mr.N.K. Sahu, Advocate for O.P.23

CORAM:

JUSTICE R.K. PATTANAİK

DATE OF HEARING:13.11.2025

DATE OF JUDGMENT:23.02.2026

1. Instant writ petition is filed by the petitioner assailing issuance of the impugned notice dated 22nd September, 2025 by opposite party No.3 as per Annexure-1 series and for that matter, the resolution dated 10th September, 2025 followed by requisition dated 12th September, 2025 received from opposite party Nos.4 to 22 on the grounds inter alia that the initiation of the no-confidence motion against her is violative of the principles of natural justice and also the provisions of the Odisha Municipal Act, 1950 (hereinafter referred to as 'the Act'), hence, therefore, the same is liable to be interfered with and quashed in the interest of justice.

2. According to the petitioner, the resolution from opposite party Nos.4 to 22 dated 10th September, 2025 under Section 54 of the Act is arbitrary and illegal and thereby the decision to go for a vote of no-confidence against her cannot be



sustained in law. It is further pleaded that the motion and decision in respect thereof are whimsical and blatantly illegal and the resolution is without any reason followed by the requisition dated 12th September, 2025, which has been acted upon by opposite party No.3 fixing a date for the special meeting, inasmuch as, due procedure has not been followed in accordance with Section 54 of the Act and also the provisions of the Odisha Municipal Rules, 1953 (in short, 'the Rules'). With the above pleading on record, the very initiation of the vote for no-confidence against the petitioner has been questioned as without having the sanction of law.

3. The election of the Municipality was held for the term 2022-2027 with the election of the Chairman and twenty-four Councilors from each Ward. Upon assumption of office by the elected Councilors of Rayagada Municipality, the petitioner was chosen as the Vice-Chairperson, whereafter, she with all sincerity and diligence claimed to have discharged her duties and responsibilities in conformity with the provisions of the Act and Rules framed thereunder. It is alleged that a faction of the Councilors of the Municipality, namely, opposite party Nos.4 to 22 led by a local leader and so-called financier for them regularly in connivance with each other, made attempts to get tenders awarded to their favoured candidates illegally and frequently interrupted the meetings of the Municipality. In spite of all such attempts by the Councilors, it is pleaded by the petitioner that she discharged responsibility to the best of her capability and



while the matter stood, the local leader, who recently resigned from a political party, in order to have control over the functioning of the Municipality, influenced and coerced the Councilors to move a motion of no confidence, as she was the only one, who refused to function under his command. It is further alleged that the said leader in order to eliminate the petitioner and gain control over the Municipality successfully threatened and coerced and manipulated opposite party Nos.4 to 22 to bring the motion against her and accordingly, a meeting was called to discuss thereon, which was attended by nineteen Councilors and all of them unilaterally voted to move the resolution for want of confidence against her. Upon such resolution passed and on receiving requisition, opposite party No.3 issued the motion notice vide Annexure-1 series fixing the date of the special meeting to be held on 9th October, 2025 and subsequent thereto, opposite party Nos.4 to 22 participated therein. As per the petitioner, opposite party No.3 did not comply with Section 54(2)(c) of the Act and only served the notice dated 22nd September, 2025 on her without copies of the proposed resolution sent therewith. It is claimed that the petitioner after receiving the notice dated 22nd September, 2025 realised about the resolution having been passed by the Councilors and managed to obtain a copy of such resolution. The contention of the petitioner is that the resolution is a non-reasoned one and hence, illegal, which is an outcome of ill-intention of opposite party Nos.4 to 22 without specifying the petitioner the reasons warranting her removal from her post of Vice-Chairperson of the Municipality. It



has been pleaded that if a proposed resolution, which is fake, frivolous or demonstrably mala fide, the same would be in violation of principles of natural justice and on a bare perusal of the contents of the resolution and requisition, it would go a long way showing that the Councilors, who moved the resolution, have miserably failed to pass a reasoned one, as there is nothing on record nor any specific allegation against her being mentioned therein, which would have otherwise enabled to refute such illegal and unfounded resolution. Lastly, it is pleaded that Rule 4 of the Rules stipulates that the meeting shall have to be convened with a procedure prescribed and therefore, before any such resolution, the petitioner was necessarily to be served with a notice of the motion but it has not been complied with and hence, the action initiated under Section 54(2) of the Act ignoring the Rules of Business is legally not tenable and hence, it has to be set at naught.

4. Perused the affidavit dated 13th November, 2025 filed by the petitioner, wherein, it has been stated that the meeting was held on the date fixed but without any discussion before proceeding to vote for or against the motion. Reiterating the plea that she as the Vice-Chairperson of the Municipality and discharged her responsibilities in best possible way but unfortunately, the no-confidence motion was moved by nineteen Councilors with resolution, wherein, it was alleged that the opinions of the Councilors have been ignored in day-to-day functioning of the Municipality, in spite of a request for discussion, according to the petitioner and on a



reading of the affidavit, it was allegedly not acceded to and straightway, the voting for the motion was held and concluded.

5. Gone through the pleadings on record.

6. Heard Mr. Kanungo, learned Senior Advocate for the petitioner, Mr. Sahoo, learned ASC for the State, Mr. Chhinchani, learned counsel for opposite party No.2, Mr. Nanda, learned counsel for opposite party Nos.4 to 22 and Mr. Sahu, learned counsel for opposite party No.23.

7. Mr. Kanungo, learned Senior Advocate for the petitioner submits that the resolution under challenge does not reveal the reasons behind the motion proposed by opposite party Nos.4 to 22. It is contended that the impugned resolution is non-reasoned and arbitrary one followed by the requisition for removal of the petitioner, which is again in flagrant violation of principles of natural justice. The contention is that no notice was served on the petitioner necessary in connection with the meeting for want of no confidence. It has been contended that the petitioner, who is directly elected as a representative, should have been given an opportunity of hearing as she would be affected thereby. Even in absence of any statutory provision, since the action would lead to unseat her from holding the position, any such motion behind her back is violative of principles of *audi alteram partem*. Referring to Rule 4 of the Rules, it is submitted by Mr. Kanungo, learned Senior Advocate that any such Councilor when desirous to move a motion is



required to submit the same in writing to the Chairperson along with a copy of such motion, which he is intended to move and therefore, the Rules of Business would have been followed conjointly with Section 54(2) of the Act before convening the meeting under Section 54(1) of the Act but no such procedure was observed, hence, the impugned notice issued by opposite party No.3 is illegal and stands vitiated as a result. In support of the contentions advanced, Mr. Kanungo, learned Senior Advocate cited the following case laws, such as, **Sindhu Devi & others Vrs. State of Bihar and others (2002)1 BLJR 201**; **M/s. S.M. Trading Co. Vrs. Assistant Commissioner of Central Goods and Service Tax, Mandoli Division, East Delhi** in W.P.(C) No.11785 of 2024 dated 3rd September, 2024; **Priyanka Singh Vrs. State of Bihar and others 2024 (6) BLJ 318**; **S.L. Kapoor Vrs. Jagmohan & others (1980) 4 SCC 379**; **Smt. Smitarani Mohanty Vrs. State of Odisha and others** in W.P.(C) No.9712 of 2024 dated 28th June, 2024; **Sri Jeyaram Educational Trust & others Vrs. A.G. Syed Mohiddenn & others (2010) 2 SCC 513** with the submission that the move for the motion by opposite party Nos.4 to 22 is behind the back of the petitioner without her knowledge or intimation and that apart, such resolution, which is the basis for the requisition is a non-reasoned decision without specifying the charges levelled against her and hence, the motion as well as any such resolution stands to fall, not being in consonance with the Act and Rules.



8. On the other hand, Mr. Sahoo, learned ASC for the State would submit that due procedure has been followed upon receiving the requisition by opposite party No.3 and it was supported by a resolution of the Councilors, who lost confidence in the petitioner, as the Vice-Chairperson of the Municipality and upon receiving the requisition from the Councilors, it was for the opposite party No.3 to proceed and fix the date for special meeting observing necessary paraphernalia, which has been complied with a date fixed for the motion and therefore, initiation of the vote of no-confidence motion cannot be challenged on any such ground pleaded by the petitioner.

9. Recorded the submission of Mr. Chhinchani, learned counsel for opposite party No.2.

10. Mr. Nanda, learned counsel for opposite party Nos.4 to 22 and Mr. Sahu, learned counsel for opposite party No.23 submit that no illegality has been committed by opposite party No.3 insofar as the exercise undertaken with respect to the motion is concerned. It is contended that the petitioner was served with copies of resolution and requisition like other Councilors and it has been served on her through a Special Messenger and any such objection could have been raised had it been true and therefore, the plea that she did not receive any such resolution and requisition is completely false and the same is, therefore, liable to be rejected outrightly. The further contention is that law does not provide any specific reason to be assigned and detailed in the resolution and requisition and therefore, the plea of the



petitioner in that regard is baseless and similarly, to be rejected. Referring to a decision of this Court in **Smt. Kanti Kumbhar Vrs. State of Orissa and another 2001 (II) OLR 44**, it is submitted that particular reasons are not to be stated while sending requisition for the purpose of considering no-confidence motion and it is also not necessary that in the proposed resolution any such reason is to be assigned and therefore, the contention of the petitioner challenging the resolution and requisition on such ground is totally misconceived. Relying on a decision of a Division Bench of this Court in **Amrita Sahu Vrs. State of Odisha & others 2020(III) ILR-Cut-200**, it is contended that the decision in **Smt. Kanti Kumbhar** (supra) has been taken judicial notice of therein and approved of. Regarding the challenge to the requisition, a decision of this Court in **Jagdish Pradhan & others Vrs. Kapileswar Pradhan & others Vol. 64 (1987) CLT 359** is pressed into service with the submission that no separate sheet or form is prescribed for the proposed resolution, as such, a resolution bears the intention behind passing it and hence, it cannot be framed to have been received under law. One more decision in **Prahallad Dalei Vrs. State of Odisha & others** in W.P.(C) No.17873 of 2014 dated 9th October, 2015 is relied on to contend that the intention of the members in support of the resolution is relevant, which is indicative of the fact that such members want to move no-confidence motion and accordingly, proposed the same. It is further contended that law is well settled that the intention of the Councilors to be gathered and therefore, not to insist upon a particular form



and in the present case, there has been due compliance of law before the motion was held and hence, the plea of the petitioner on such ground opposing it is completely devoid of any merit. With respect to Rule 4 of the Rules, according to Mr. Sahu, learned counsel for opposite party No.23, such provision relates to normal meetings or any such special meetings convened by the Municipality to be held for regular business and it does not cover a no-confidence motion initiated in terms of Section 54 of the Act. Moreover, such Rules states about the notice to the Chairperson, whereas, Section 54(2)(c) of the Act relates to notice by the Collector to the Councilors and that apart, the Constitution (74th Amendment) Act, 1992 inserted in the Constitution of India vide Part-I recognizes Municipalities as institutions of self-governance and particularly, Article 243-W that deals with power, authority and responsibility of the Municipality and when all the Councilors, who act for the welfare of the public by whom they are elected, do have their responsibilities to ensure that the Municipality is run smoothly and efficiently and since the petitioner without appreciating the spirit of self-governance acted contrary to the mandate of law, finding no other alternative, the resolution was drawn seeking her removal and therefore, the exercise initiated with the notice issued by opposite party No.3 cannot be questioned on such ground, hence, the same is also liable to be rejected.

11. Section 54(1) of the Act stipulates that when a special meeting is convened by the District Magistrate on a



resolution passed and supported by not less than 2/3rd of the total number of Councilors recording want of confidence in the Chairperson or Vice-Chairperson, as the case may be, it shall be notified in the Gazette and upon such publication, the person holding such position would be deemed to have vacated such office. Furthermore, Sub-Section(2) thereof deals with the provisions in convening a meeting under Sub-Section(1) and in the conduct of business at such meeting and the procedure to be followed as per the Rules made under the Act and Clause(c) to it, whereby, the District Magistrate shall within ten days of receipt of such requisition, fix the date, hour and place of such meeting and give notice of the same to all the Councilors holding office on the date of such notice along with a copy of the resolution and/or the proposed resolution at least three clear days before the date so fixed.

12. In case at hand, the resolution is passed by opposite party Nos.4 to 22 in a meeting called and thereafter, it was followed by the requisition and upon receiving the same, opposite party No.3 issued the notice as per Section 54(2)(c) of the Act. First of all, the petitioner claims that such notice as per Annexure-1 series was not accompanied with the copy of the resolution and requisition, which is statutorily mandatory but insofar as other members are concerned, no one had any such grievance of not having received the copies of the resolution and requisition sent along with the notice by opposite party No.3. Of course, the Councilors could not have any such grievance, who proposed the



resolution and motion but at the same time, it is for the petitioner to demonstrate that the notice was not received with the resolution and requisition. No objection was raised by the petitioner for not having been served with the resolution or requisition on receiving the notice. The receipt of notice by the petitioner is not in dispute. The claim is that the notice did not have the resolution and requisition. When other Councilors received the notice with the proposed resolution and requisition, it has to be assumed that a similar notice was sent to the petitioner. No material is on record to show the manner, in which, the notice was issued and served on all the Councilors and also the petitioner. Rather, it has to be held that opposite party No.3 in usual course of business in compliance with the Act and Rules issued the notice obviously accompanied with the proposed resolution and requisition. It is reiterated that the petitioner, if was really aggrieved for not having received the resolution and requisition, it was for her to immediately bring it to the notice of opposite party No.3 and to enquire about the purpose behind the no-confidence motion proposed. When nothing is demonstrated on record by the petitioner, a bald allegation of having not been served with resolution and requisition while receiving the notice, is unacceptable, hence, such plea deserves to be rejected.

13. As regards Rule 4 of the Rules, the Court is in agreement with the contention of learned counsels for the opposite parties, a provision, which primarily deals with regular business of the Municipality. In fact, as per Rule 4,



the Councilor may move a motion with a notice in writing to the Chairman and shall together with the notice send a copy of the motion, which he is desirous to move and thereafter, the further course of action to follow suit. According to Rule 5, the Chairman shall decide, if the motion is in order or otherwise and to include it in the list of business for the next meeting, if the same has been received in time but when received beyond time, the same is to be included in the next succeeding meeting. As per Rule 6, if the Chairman decides that a motion is not in order, he shall make such alternations therein and decision in that regard shall be final. On a reading of the subsequent provisions up to Rule 11 of the Rules, it is made to understand that the entire exercise relates to regular business of the Municipality. Even as per Rule 13, a special meeting may be convened. Rule 12 deals with the order of business of the meeting and in the manner, the same is to be conducted. All such provisions on a conjoint reading would lead to a conclusion that the provisions including Rule 4 of the Rules relied on by Mr. Kanungo, learned Senior Advocate for the petitioner are in relation to regular meetings and motions moved at the behest of the Councilors to be taken up by the orders of the Chairman. There is no such provision in the Rules that relates to no-confidence motion and any specific role attributed by the Chairman in that regard. It has to be concluded that the special meeting for a motion vis-à-vis removal of Chairperson or Vice-Chairperson is to be guided and governed by Section 54(2) of the Act. In case, any such motion is moved by a Councilor or a group of Councilors



assuming that it shall be subject to Rule 4 of the Rules and if the Chairperson does not act upon the same, no provision is available in the Rules to deal with such a situation especially when the motion is for a vote of no-confidence against him. It is not that any such motion if not entertained by the Chairperson of the Municipality as per Rule 4 of the Rules, the District Magistrate is to intervene and to fix up a date for the meeting to be held for the said purpose. On a sincere reading of Section 54(2) of the Act and Rule 4 of the Rules, it is crystal clear that the former lays down the procedure in respect of the no-confidence motion against the Chairperson or Vice-Chairperson and the latter is applicable in respect of regular meetings convened by the Municipality including the motions of the Councilors and the same is nothing to do with no-confidence motion against the Chairperson or Vice-Chairperson. The Court is respectfully in disagreement with the contention of Mr. Kanungo, learned Senior Advocate for the petitioner, which is advanced, referring to the decision in **Smt. Smitarani Mohanty** (supra).

14. As regards the decision in **Sindhu Devi** (supra), the Court is of the humble view that the same is not applicable to the case at hand. The above decision by Patna High Court is based on Section 42 of the Bihar Panchayati Raj Act, 1993 towards removal of Pramukha or Up-pramukha with a no-confidence motion initiated and whether any opportunity of hearing was provided or otherwise, as there was a charge of misconduct alleged in the discharge of duty by them. In



the said Act, any such motion to be backed by reason behind the meeting called upon shall have to be specified. In fact, Section 44(3) of the said Act prescribes that the meeting proposed is to specify the object, for which, it has been proposed to be called and in that context, it has been concluded in the decision (supra) that notice to a member in writing with charges of misconduct or misdemeanor, which a Pramukha or Up-pramukha of a Panchayat Samiti may have to face himself, have to be revealed and only thereafter, a meeting is to be held and then only, the business is to be transacted. However, no such provision is in the Act and Rules where a resolution is to assign or specify the reason or the object behind the motion or the meeting proposed by the Councilors for a vote of no-confidence motion against the Chairperson or Vice-Chairperson, whosoever, against whom, the action is initiated. Therefore, the decision in **Sindhu Devi** (supra) cited by Mr. Kanungo, learned Senior Advocate for the petitioner is of no assistance to the plea that the petitioner should have been intimated about the reasons in detail for passing the resolution. Referring to **M/s. S.M.Trading Co.** (supra), it is also contended by Mr. Kanungo, learned Senior Advocate that the show cause notice on the basis of such a resolution and requisition is invalid. Again, with due respect, this Court is of the view that the decision (supra) is not applicable. When a resolution is passed by the Councilors and requisition is submitted and the same reveal their intention to remove the Chairperson or Vice-Chairperson that by itself is sufficient compliance of the



provisions of the Act and Rules. Law does not envisage that in a resolution, a detailed charge has to be levelled and indicated. The intention of the Councilors is paramount and in case, a resolution is passed with the claim that they have lost confidence in the Councilors, it is for them only to determine, the course of action. A Chairperson or Vice-Chairperson, against whom such a resolution is drawn by the Councilors, may well participate in the debate in the special meeting against the motion. The subject of debate to the motion would be based on losing confidence in the Chairperson or Vice-Chairperson. When it is claimed by the Councilors that their opinions have not been respected and that being the basis for the motion proposed, it is for the Office Bearers of the Municipality to debate in the special meeting to be convened by the District Magistrate. Though, it is claimed by the petitioner that no such discussion was held in the meeting, there is nothing on record to justify the same, which could have been brought to the notice of opposite party No.3. Rather Section 54(2)(c) of the Act stipulates that the District Magistrate on a resolution and requisition received is to issue notice fixing a date for special meeting. The Act is silent insofar as the meeting held by the Councilors to draw a resolution, whether, to be preceded by a notice to the Chairperson or Vice-Chairperson, as the case may be. The law rather prescribes that upon receiving a requisition, the District Magistrate, in accordance with Section 54(2)(c) of the Act, is to give notice to all the Councilors. In the present case, the petitioner has been issued with such notice with intimation



about the no-confidence motion proposed by opposite party Nos.4 to 22. The law does not envisage any such enquiry by the District Magistrate on the allegation made by the Councilors against the Chairperson or Vice-Chairperson upon receiving the requisition. In **Smt. Kanti Kumbhar** followed by the decision in **Amrita Sahu** (supra) of this Court, it has been concluded that law does not require any particular reason to be given for sending a requisition. Similarly, it is not necessary that a proposed resolution must have to assign reasons before proposing a no-confidence motion.

15. The Municipality is an institution of self-governance and it is for the Councilors, Chairperson or Vice-Chairperson to discharge the duties and responsibilities keeping in view the constitutional spirit of governance of a civil body. In **Jagyaseni Oram Vrs. State of Odisha & others** in W.P.(C) No.1312 of 2025 dated 28th February, 2025, it has been held that a resolution is needed to be passed in a meeting and sent to the Authority concerned along with a requisition and what is important is that the proposed resolution carries the requisite intention to go for no-confidence motion. Referring to the decision in **Dasaratha Munda Vrs. Collector, Keonjhar and others 2007 (Supp.-I) OLR 242**, it is further concluded therein that resolution means a final decision taken at a meeting and if the same is still evident to hold a special meeting for the no-confidence motion, the same would serve the purpose and shall be considered compliance of the provisions of the Act.



The decision in **Dasarath Munda** (supra) was in connection with vote of no-confidence motion initiated against a Sarpanch in terms of the provisions of the Odisha Grama Panchayats Act, 1964. In **Sulochana Behera Vrs. State of Odisha & others 2018 AIR (Ori) 17**, it has been held that for the purpose of considering the no-confidence motion, it is not necessary that in the proposed resolution, reasons are to be indicated and therein decision in **Smt. Kanti Kumbhar** (supra) was referred to. It has also been held therein that separate sheet of resolution is not necessary. At last, the decision in **Babubhai Muljibhai Patel Vrs. Nandlal Khodidas Barot & others (1974) 2 SCC 706** is placed reliance on but Mr. Sahu, learned counsel for opposite party No.23 submits that the writ court has limited role to play and is not to entertain a question of fact and the jurisdiction is discretionary in nature. In the aforesaid case, it has been held by the Hon'ble Apex Court that a meeting was requisitioned by the Councilors to consider a motion of no-confidence against the President and during the meeting, the Vice-President favoured the President and against the aforesaid backdrop, it was concluded that what happened at the meeting and the subsequent meeting held after the departure of the President and Vice-President formed the matter of enquiry before the Collector and while dealing with such a situation, it was concluded that the writ jurisdiction is not to consider the disputed questions of fact, which is to be dealt with by an enquiry and not while examining the validity of the motion. It is reiterated by the Court that what prevailed upon the Councilors to go after



the petitioner for a vote of no-confidence is something which should be left to them for a discussion and debate and in that, the District Magistrate has no role play. If any such allegation is made against the Chairperson or Vice-Chairperson about misconduct, dereliction in duty etc. and it has been followed by a resolution and requisition, the District Magistrate is not to hold enquiry to verify the same, rather, it should entirely be left open for a debate and discussion at the meeting to be convened for the motion. In the Bihar Panchayati Raj Act, 1993, the relevant provisions prescribe that object of the motion is to be satisfied and also an opportunity of hearing provided while alleging misconduct in discharge of duty referable to Section 42(4) thereof and therefore, in **Sindhu Devi** (supra), it was concluded that due process has not been followed for the no-confidence motion but in the Act and Rules, there is no such provision in place that a resolution must necessarily assign reasons mentioning therein the details of charges levelled against the Chairperson or Vice-Chairperson. If the reason behind the resolution is indicated, it is well and good but in absence of it, the motion does not become invalid. As discussed herein before, this Court in **Smt. Kanti Kumbhar** and **Amrita Sahu** (supra) held that it is not necessary that in the proposed resolution, any such reason is to be specifically indicated.

16. Considering the case laws cited and discussed herein above, the Court reaches at a conclusion that the petitioner cannot demand any such opportunity of hearing before the



meeting held at the level of Councilors and resolution passed by them. Section 54(2)(c) of the Act deals with a notice to the Councilors. Insofar as the petitioner is concerned, she has been served with a notice by opposite party No.3 and therefore, it has to be held that there is due compliance of the provisions of the Act. It is also concluded that no such notice is necessary, as pleaded by the petitioner with reference to Rule 4 of the Rules, which, as has already been concluded, is not the provision dealing with no-confidence motion, rather, confined to regular meetings in the business of the Municipality. Having said that, the Court finds no wrong or illegality committed by opposite party No.3 in the issuance of the impugned notice at Annexure-1 series nor in the resolution and requisition received from opposite party Nos.4 to 22 and therefore, the initiation of the motion against the petitioner suffers from no legal infirmity.

17. Accordingly, it is ordered.

18. In the result, the writ petition stands dismissed.

(R.K. Pattanaik)
Judge