

provision of the MH Act, 2017, including Section 82 of the MH Act, 2017.

(vii) The aforesaid directions have been passed on the strength of the petitioner's submission and averments made before this Court as well as the report of the Tehsildar- Ramnagar that opposite party no.4 is under the care and living along with the petitioner and there is valid and existing 'no objection' Affidavit of other relatives of opposite party no.4 in favour of the petitioner. The parties shall be bound by the said submission and in case, the same are found otherwise, appropriate proceedings including Contempt of Court may be initiated against them.

(21) The petition is, accordingly, allowed.

(2025) 5 ILRA 1486
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 06.05.2025

BEFORE

THE HON'BLE ANJANI KUMAR MISHRA, J.
THE HON'BLE JAYANT BANERJI, J.

Writ C No. 11196 of 2025

Smt. Bandana**Petitioner**
Versus
State of U.P. & Ors. ...**Respondents**

Counsel for the Petitioner:
 Siddharth Nandan

Counsel for the Respondents:
 C.S.C, J.P.N. Singh

A. Civil Law-Constitution of India,1950-Article 226-Kshetra Panchayat and Zila Panchayat Act,1961-Section 15(2) & (3)-The petitioner an elected member of the Kshetra Panchayat submitted a non-

confidence motion against the Block Pramukh-The notice was supported by 70 out of 100 elected members and submitted to the Collector u/s 15(2) of the Act,1961-Instead of convening a meeting, the Collector rejected the motion on 20.03.2025 citing affidavits from 69 members denying their support for the motion-Held, once a non-confidence motion u/s 15(2) of the Act is validly submitted with signatures of at least half of the elected members, the Collector is statutorily obligated to convene a meeting within 30 days and cannot reject the motion based on belated rebuttal affidavits or enter into disputed questions of fact such as forgery or coercion-The Court quashed the Collector's order rejecting the motion and directed a summary verification of signatures from Panchayat records, reiterating that the Collector's role is limited to a prima facie satisfaction, not detailed inquiry.(Para 1 to 31)

The writ petition is allowed. (E-6)

List of Cases cited:

1. Mathura Prasad Tewari Vs Asst. Ditt. Panchayat Officer, Faizabad(1996) ALJ 612
2. Smt. Phulbasa Vs D.M. collector & ors., Writ C No. 36671 of 2024
3. Vikas Trivedi Vs St. of U.P. (2013) 2 UPLBC 1193 para 66
4. Vikash Kr. & anr. Vs St. of U.P. & ors. (2025) 2 ADJ 1
5. Ulma Devi Vs St. of U.P. & ors. (2014) 4 ADJ 3
6. Smt. Sheela Devi & ors. Vs St. of U.P. & ors. (2015) 2 ADJ 325
7. Kavita Vs St. of U.P. (2018) 10 SCC 569
8. Kiran Pal Singh Vs St. of U.P. & ors. (2018) 7 SCC 521

(Delivered by Hon'ble Jayant Banerji, J.)

1. The petitioner, who is an elected member of Kshetra Panchayat constituted under the Kshetra Panchayat and Zila Panchayat Act, 1961 delivered in person a written notice of intention to make a motion of no confidence in the Pramukh of Kshetra Panchayat in proper form which was signed by more than half of the total number of elected members of Kshetra Panchayat i.e. 70 members out of 100 members, together with a copy of the proposed motion to the Collector, Azamgarh, who had jurisdiction over the Kshetra Panchayat. This notice of no confidence was moved on 7.3.2025 in accordance with Section 15(2) of the Act, 1961.

2. The respondent no. 2 i.e. Collector/District Magistrate, Azamgarh, it is alleged, did not take any action on the notice dated 7.3.2025. Thereafter, within a period of five days on 12.3.2025, 69 members of Kshetra Panchayat allegedly filed notarized affidavit in support of Block Pramukh, enclosed with a letter of the Block Pramukh of the same date, stating that they had not participated in any meeting to propose motion of no confidence against the respondent no.3 and had not signed affidavit regarding the same. Thereafter, by means of the impugned order dated 20.3.2025, the notice dated 7.3.2025 expressing no confidence was found to be not maintainable and was rejected.

3. The contention of the learned counsel for the petitioner is that once the written notice of intention as envisaged in Section 15(2) of the Act, 1961 is moved before the Collector, the Collector has no option, but to proceed to convene a meeting of Kshetra Panchayat for consideration of motion at the office of Kshetra Panchayat

on a date appointed by him which shall not be later than 30 days from the date on which the notice under sub-section (2) of Section 15 of the Act is delivered to him and is mandated to give to the elected members of Kshetra Panchayat a notice of not less than 15 days of such meeting. The Collector cannot embark on a fact finding exercise and collect evidence in that regard. No trial can be conducted by the Collector as he does not have the trapping of the court. Reference has been made to a Full Bench decision of this Court in **Mathura Prasad Tewari Vs. Assistant District Panchayat Officer, Faizabad2.**

4. It is stated that the impugned order reflects that 69 affidavits were submitted by the alleged members of Kshetra Panchayat before the Collector on 12.3.2025 stating that they were completely satisfied with the manner of working and the work of Pramukh, who is working for the benefits of Kshetra Panchayat and has done a lot of development works; that 34 members of Kshetra Panchayat had allegedly appeared before the Collector on 20.3.2025, on which date the impugned order was passed; that they submitted affidavits allegedly signed by them stating that they were fully satisfied with the manner of working and the work of the Block Pramukh and expressed confidence in him, and that they had never signed any affidavits expressing want of confidence in Block Pramukh and if any such affidavits had been filed, the same should be taken as void; that the impugned order reflects that since 34 of the signatories to the written notice of intention to move a motion of no confidence had submitted their affidavits on 20.3.2025, the remaining signatories to the written notice of intention are reduced to 36 which is less than half of the total strength to 100 elected members of the

Kshetra Panchayat; that the act of the Collector in rejecting the aforesaid motion is contrary to the statute and against the judgments passed by this Court.

5. On query being made by the court, Shri Sandeep Singh, learned Additional Chief Standing Counsel, states on the basis of oral instruction received from the District Panchayat Raj Officer³, Azamgarh telephonically, that after receipt of the communication from the respondent No.3 dated 12.03.2025 no report was submitted either by the Chief Development Officer⁴ or by the DPRO. It is also been submitted by him that after receipt of the notice of No Confidence dated 07.03.2025, though the same were marked by the Collector to the CDO/DPRO, neither of them had submitted any report. It is further been stated by the learned Standing Counsel that it is only on 20.03.2025 that the CDO and the DPRO assembled in the office of the District Magistrate, Azamgarh, the facts were collated and the impugned order was passed. He further states that as per the oral instruction received from the DPRO the file was with the CDO till 18.03.2025 and no report/action was taken or done.

6. On query being made by the court as to how the respondent no.3 had received information about the no-confidence motion being submitted before the Collector, Shri K.R. Singh learned counsel, states that no communication whatsoever was received by the respondent No.3 from the office of the Collector or the CDO or the DPRO, but they had received prior intimation on 04 of March 2025 from the local media i.e. a Youtube channel by the name of Janta News channel; that on 07.03.2025, another video was uploaded on Youtube in which the petitioner's husband

is shown as showing the notice of no confidence. Thus it is stated that the respondent no. 3 received information about the notice of no confidence motion from the aforesaid YouTube Channel.

7. Shri K.R. Singh, Advocate, has referred to page 33 and 104 of the writ petition to contend that in the affidavits allegedly filed by the signatories to the written notice have stated that a meeting was convened by them on 10.11.2024 whereas in the proposal expressing want of confidence enclosed with the written notice shows the date of 25.2.2025. It is stated that there was no resolution on 10.11.2024 passed by the signatories to the no confidence motion. Hence, the notice of intention to make the motion of no confidence is defective and is liable to be rejected. It is further stated that the affidavit on page 33 of the writ petition is of a later date than the proposal which was allegedly passed in the resolution dated 25.2.2025 but the affidavit refers to a meeting held on 10.4.2024 and therefore, there is a clear contradiction rendering the notice of intention to make the motion of no confidence, defective.

8. In rejoinder, learned counsel for the petitioner has referred to page 20 of the writ petition, which is part of the impugned order passed by the respondent no. 2, to contend that it reflects that on 20.3.2025, 34 members of the Kshetra Panchayat had appeared in person before the Collector and filed affidavits stating that they were completely satisfied with the work of the Pramukh and that they expressed their confidence in him. The contention is that these 34 affidavits are a repetition of the contents of the affidavits included in the 69 affidavits filed earlier by the Block Pramukh before the Collector.

9. When the matter was listed on 16.4.2025, the learned Standing Counsel appearing for the State-respondents was directed to produce the original record pertaining to the issue in the writ petition and to obtain detailed instructions in the matter and file counter affidavit.

10. On 28.4.2025, for perusal of the Court, the instructions sent by the Collector by means of a letter dated 26.4.2025 were produced, but no counter affidavit has been filed. The original records pertaining to the no confidence motion sought to be moved by the petitioner were produced. It is pertinent to note that despite direction of this Court for filing a counter affidavit, it is reflected in the covering letter of 26.4.2025 sent alongwith the instructions, that the Additional DPRO, Azamgarh was directed to file the aforesaid instructions.

11. The written instructions dated 26.4.2025 as signed by the Collector / District Magistrate and sent to the Standing Counsel, read as under:-

“मा० उच्च न्यायालय में योजित सिविल प्रकीर्ण रिट याचिका सं०-11196/2025 श्रीमती बन्दना बनाम उ० प्र० राज्य व 03 अन्य में पारित आदेश दिनांक 16.04.2025 के अनुपालन में अनुदेश निम्नवत् है:-

1. यह कि याचिनी द्वारा दिनांक 07.03.2025 को क्षेत्र पंचायत हरैया के सम्पूर्ण सदस्य संख्या 100 के सापेक्ष 70 सदस्यों का शपथ पत्र संलग्न करते हुए विपक्षी संख्या 03 के विरुद्ध अविश्वास नोटिस विपक्षी संख्या 02 के समक्ष प्रस्तुत किया गया। (संलग्नक 01)

2. यह कि उक्त पर विपक्षी संख्या 02 द्वारा तदिदनांक को मुख्य विकास अधिकारी / जिला पंचायत राज अधिकारी को नियमानुसार आवश्यक कार्यवाही करने के निर्देश दिये गये।

3. यह कि नोटिस हेतु नियत समय अवधि के पूर्व ही विपक्षी संख्या 03 द्वारा दिनांक 12.03.2025 को विपक्षी संख्या 02 के समक्ष उपस्थित होकर 69 क्षेत्र पंचायत सदस्यों द्वारा विपक्षी संख्या 03 के पक्ष में शपथ पत्र प्रस्तुत कर उनके कार्यशैली व कार्य से संतुष्ट होने तथा अब तक किये गये समस्त कार्य समस्त ग्रामों/वार्डों में समान रूप से क्षेत्र पंचायत के हित में विकास कार्य कराये जाने के कारण अपना विश्वास व्यक्त किया तथा उनके द्वारा विपक्षी संख्या 03 के विरुद्ध प्रस्तुत अविश्वास प्रार्थना पत्र पर कोई हस्ताक्षर नहीं किये जाने तथा अविश्वास प्रस्ताव की मीटिंग में प्रतिभाग न किये जाने का अभिकथन किया गया।(संलग्नक 02)

4. यह कि दिनांक 20.03.2025 को क्षेत्र पंचायत हरैया के 34 क्षेत्र पंचायत सदस्य, जो अविश्वास सूची में सम्मिलित थे, के द्वारा स्वयं विपक्षी संख्या 02 के समक्ष उपस्थित होकर इस आशय का शपथ पत्र प्रस्तुत किया गया कि वे विपक्षी संख्या 03 के कार्यशैली व कार्य से पूर्ण रूप से संतुष्ट हैं। विपक्षी संख्या 03 द्वारा अब तक क्षेत्र पंचायत के हित में समस्त कार्य किये गये हैं और क्षेत्र पंचायत के समस्त ग्रामों/वार्डों में समान रूप से विकास कार्य भी कराये गये हैं। शपथकर्ताओं द्वारा विपक्षी संख्या 03 के पक्ष में अपना विश्वास प्रकट किया गया। शपथकर्ताओं द्वारा शपथ पत्र के पैरा 02 में यह उल्लेख किया गया है कि शपथकर्ता द्वारा विपक्षी संख्या 03 के विरुद्ध अविश्वास प्रस्ताव के सम्बन्ध में यदि कोई नोटरी बयान हल्फी प्रस्तुत की गयी हो तो उसे शून्य समझा जाया। (संलग्नक 03)

5. यह कि दिनांक 20.03.2025 को विपक्षी संख्या 02 के समक्ष उपस्थित होकर क्षेत्र पंचायत सदस्यों द्वारा उक्त के सम्बन्ध में की गयी पृच्छा के सम्बन्ध में स्वयं यह अवगत कराया था कि उनके उपर किसी भी व्यक्ति का कोई दबाव नहीं है, वे विपक्षी संख्या 03 में उनके द्वारा कराये गये निष्पक्ष विकास कार्यों के दृष्टिगत अपना विश्वास प्रकट करते हैं।

6. यह कि विपक्षी संख्या 02 द्वारा उपस्थित सदस्यों की पहचान सुनिश्चित करते हुए पत्रावली पर उपलब्ध प्रत्यों, साक्ष्यों एवं उसके समक्ष व्यक्तिगत रूप से उपस्थित होकर शपथ पत्र प्रस्तुत करने वाले सदस्यों का परीक्षण करते हुए अविश्वास प्रस्ताव क्षेत्र पंचायत तथा जिला पंचायत अधिनियम 1961 (यथा संशोधित) की धारा 15 की उप धारा 02 में निर्दिष्ट अर्हताओं पर पूर्ण न पाते हुए याचिनी द्वारा प्रस्तुत अविश्वास प्रस्ताव विषयक प्रार्थना पत्र दिनांक 07.03.2025. को पोषणीय न पाते हुए विधियों, नियमों

एवं शासनादेशों के अनुक्रम में स्पष्ट, मुखर व सकारण याचिकाधीन आदेश दिनांक 20.03.2025 पारित किया गया है जो उचित एवं विधिसम्मत है तथा निरस्त किये जाने योग्य नहीं है। (संलग्नक 04)

7. यह कि अविश्वास प्रस्ताव अस्वीकृत हो जाने के पश्चात याचिनी द्वारा प्रस्तुत शपथ पत्रों के आधार पर अग्रेतर कार्यवाही किये जाने की मांग नियमानुसार पोषणीय नहीं है।

8. यह कि याचिनी द्वारा अविश्वास प्रस्ताव हेतु अपेक्षित संख्या पूर्ण न कर पाने की हताशा में अनुचित लाभ प्राप्त करने की नीयत से गलत तथ्यों के आधार पर प्रश्रुत याचिका योजित की गयी है।

9. यह कि याचिनी के पास यह अवसर है कि यदि उसके पास अविश्वास प्रस्ताव हेतु अपेक्षित सदस्य संख्या उपलब्ध है तो पुनः अविश्वास प्रस्ताव ला सकती है। वैकल्पिक अनुतोष उपलब्ध होने के कारण याचिका पोषणीय नहीं है।

10. यह कि याचिनी के स्वच्छ हाथों से माननीय न्यायालय के समक्ष न आने के कारण वह कोई अनुतोष प्राप्त करने की अधिकारिणी नहीं है।

11. यह कि उपरोक्त कारणों से बलहीन होने के कारण याचिका सव्यय निरस्त होने योग्य अनुदेश सेवा में सादर

प्रेषिता
जिलाधिकारी
आजमगढ़”

12. A perusal of the original record, in which the pages are numbered in reverse order, reflects that the written notice of intention for moving no confidence motion in Pramukh was made in Form I and signed on 7.3.2025 by the petitioner which was received by the Collector/District Magistrate on 7.3.2025 alongwith the proposed motion of no-confidence and on that very day, he endorsed to the CDO/DPRO. The CDO, Azamgarh endorsed it to the DPRO for taking necessary action as per rules and without delay. This notice bears 70

signatures/thumb impressions. The proposed motion expressing want of confidence in the Pramukh bears date of 25.2.2025. There are also 70 affidavits signed by persons, who claim to be members of the Kshettra Panchayat, Haraiya, District Azamgarh, and who state that they had assembled at a meeting on 10.11.2024 for purpose of expressing no confidence in the Pramukh and they had signed on the proposal as well as on the written notice of intention.

13. In the original record, there is a letter dated 12.3.2025, which is also enclosed with the instructions, written by Sandeep Patel, Pramukh, Kshettra Panchayat, Haraiya, District Azamgarh addressed to the Collector, Azamgarh on the subject of written notice of no confidence against Block Pramukh. The letter reads as under:-

"पत्रांक:- दिनांक:- 12.03.25

सेवा में,
कलेक्टर,
आजमगढ़।

विषय:-प्रमुख क्षेत्र पंचायत-हरैया, जनपद-आजमगढ़ के विरुद्ध प्रेषित अविश्वास प्रार्थना पत्र के सम्बंध में।

महोदय,

अधोहस्ताक्षरी को विश्वसत सूत्रों से ज्ञात हुआ है कि प्रमुख, क्षेत्र पंचायत-हरैया, जनपद-आजमगढ़ के विरुद्ध कतिपय क्षेत्र पंचायत सदस्यों द्वारा कुछ क्षेत्र पंचायत सदस्यों का फर्जी हस्ताक्षर बनाकर महोदय को अविश्वास प्रस्ताव प्रार्थना पत्र प्रेषित किया गया है, जो क्षेत्र पंचायत तथा जिला पंचायत अधिनियम 1961 की धारा 15 के अंतर्गत विधि सम्मत नहीं है।

उक्त क्षेत्र पंचायत के निर्वाचित 100 क्षेत्र पंचायत सदस्यों में से 69 क्षेत्र पंचायत सदस्यों द्वारा नोटरी शपथ पत्र पर इस

आशय का बयान दिया गया है कि उनके द्वारा प्रमुख, क्षेत्र पंचायत-हरैया, विकास खण्ड- आजमगढ़ के विरुद्ध अविश्वास प्रार्थना पत्र पर कोई हस्ताक्षर नहीं किया गया है।

अतः आपसे अनुरोध है कि उक्त अविश्वास प्रार्थना पत्र पर क्षेत्र पंचायत सदस्यों के किये गये फर्जी हस्ताक्षर की अपने स्तर यथोचित कार्यवाही करने की कृपा करें।

सलग्नक: 69 क्षेत्र पंचायत सदस्यों की नोटरी शपथ-पत्र।

(संदीप पटेल)

प्रमुख,
क्षेत्र, पंचायत- हरैया,
जनपद- आजमगढ़,
उ०प्र०”

14. Alongwith the aforesaid letter of 12.3.2025, the notarised affidavits of 69 members of Kshetra Panchayat are enclosed. This letter was received by the District Magistrate on 12.3.2025 who endorsed it to the CDO/DPRO on the same day. On that very day, the CDO, Azamgarh directed, on that letter, the DPRO to take necessary action in accordance with rules without delay. In the enclosed notarised affidavits, it has been stated that they had not participated in the meeting for no confidence proposal against the Pramukh and neither had they signed on the no confidence proposal. They had also not given any affidavit in support of the no confidence motion.

15. Also in the original record are several photographs bearing page nos. 296 to 328, that appear to be taken, perhaps on 20.03.2025, in the office of the Collector / District Magistrate allegedly showing the presence of the signatories to the affidavits dated 18.3.2025, handing over the same to the Collector. There is bunch of affidavits

from page 228 to 295 corresponding to 34 affidavits that are notarised enclosing therewith photocopies of aadhar cards. In the affidavits, it is written that in case the deponent, who is a member of the Kshetra Panchayat, has given any affidavit for no confidence against Pramukh, that should be taken to be void. It is further stated that the deponent expresses confidence in the Block Pramukh and he is satisfied with the work done by the Block Pramukh who has done a lot of development works. On page 295 of the original record, on an affidavit itself, the District Magistrate on 20.3.2025 has endorsed it to the CDO/DPRO.

In the original record there is no report or communication whatsoever of either the CDO or the DPRO addressed to the Collector / District Magistrate or to any other authority in compliance of the repeated orders of the Collector dated 7.3.2025, 12.3.2025 and 20.3.2025.

16. Sub-sections (1), (2) and (3) of Section 15 of the Act, 1961 read as follows:

"15. Motion of non-confidence in Pramukh-

(1) A motion expressing want of confidence in the Pramukh or any of a Kshetra Panchayat may be made and proceeded with in accordance with the procedure laid down in the following sub-sections.

(2) A written notice of intention to make the motion in such form as may be prescribed, signed by at least half of the total number of elected members of the Kshetra Panchayat for the time being

together with a copy of the proposed motion, shall be delivered in person, by any one of the members signing the notice, to the Collector having jurisdiction over the Kshetra Panchayat.

(3) The Collector shall thereupon-

(i) convene a meeting of the Kshetra Panchayat for the consideration of the motion at the office of the Kshetra Panchayat on a date appointed by him, which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him; and

(ii) give to the elected member of the Kshetra Panchayat notice of not less than fifteen days of such meeting in such manner as may be prescribed.

Explanation— In computing the period of thirty days specified in this sub-section, the period during which a stay order, if any, issued by a Competent Court on a petition filed against the motion made under this section is in force plus such further time as may be required in the issue of fresh notices of the meeting to the members shall be excluded."

17. Thus the ingredients of sub-section (2) of Section 15, as they appear from a bare reading of the provision, are:

(i) a written notice of intention to make a motion expressing want of confidence in the Pramukh of a Kshetra Panchayat would be in such form as may be prescribed,

(ii) this written notice shall be signed by at least half of the total number of elected members of the Kshetra Panchayat for the time being,

(iii) the aforesaid written notice shall be accompanied by a copy of the proposed motion expressing want of confidence in the Pramukh,

(iv) the aforesaid written notice as well as a copy of the proposed motion shall be delivered in person by any one of the members signing the written notice to the Collector having jurisdiction over the Kshetra Panchayat.

18. (i) As regards the form in which a written notice of intention to make a motion expressing want of confidence in the Pramukh of a Kshetra Panchayat is concerned, in the case of **Smt. Phulbasa Vs. District Magistrate Collector and 6 others**⁵, it has been held by this Court after considering several judgments that it would be sufficient notice of intention to make the motion, if the intention to make a motion for no confidence is reflected from perusal of the notice and as such it is not mandatory for the written notice of intention to make the motion to be in the prescribed format.

(ii) It is the written notice of intention to make the motion of no confidence that is to be signed by at least half of the total number of the elected members of the Kshetra Panchayat. Though, it is not the requirement nor is it mandatory that affidavits of the signatories to the written notice of intention are to be submitted by the signatories to the written notice, affidavits may be required by the Collector to facilitate the consideration of the written notice of intention to make the no confidence motion as far as its validity is concerned.

(iii) The copy of the proposed no confidence motion is to accompany this

written notice. That copy of the proposed no confidence motion does not require the signatures of any of the signatories of the written notice. In the Full Bench decision of this Court in the case of **Vikas Trivedi Vs. State of U.P.**⁶, it has been observed that while notice of intention to make the motion is required to be signed by at least half of the total number of elected members, there is no such requirement in respect of copy of the proposed motion. As a corollary or even otherwise, the proceedings or date of any meeting of the signatories to the written notice of no-confidence for formulating and resolving the proposed motion of no-confidence is of no consequence for the Collector to consider the validity of the written notice of intention.

19. This Court has been noticing that in petitions arising out of steps initiated under Section 15 of the Act, 1961, where affidavits in support of the written notice are being filed before the Collector, rebuttal affidavits are filed allegedly by some signatories of the written notice of intention and the Collector proceeds to consider the rebuttal affidavits to pass an order rejecting the written notice of intention to make the motion of no confidence.

20. In the case of **Vikash Kumar and another Vs. State Of Up and others**⁷, it was directed, while relying upon another Division Bench judgment of this Court in **Utma Devi vs. State of U.P. & Others**⁸, that where there are affidavits on record in support of the motion and if there are affidavits to the contrary submitted, it is the duty of the Collector to satisfy himself after looking into the record of the Kshettra Panchayat. If the District Magistrate is, *prima facie*, satisfied as to the signatures of the members of the Kshettra Panchayat in

the written notice after looking into the records of the Kshettra Panchayat, he would proceed to convene a meeting of Kshettra Panchayat for consideration of 'no confidence motion' at the office of Kshettra Panchayat. Such an exercise of looking into the records of the Kshettra Panchayat, however, would not enable the Collector to resolve or enter into finding of facts of seriously disputed question such as forgery, fraud, coercion and/or duress.

21. The Collector is not required to rely upon the contents of any affidavit filed in rebuttal alleging fraud, coercion by expressing denial of signatures and/or the contents of any affidavit in support of the written notice to come to any conclusion regarding the validity of the written notice. Such an exercise is impermissible. The aforesaid judgment of the **Utma Devi** has been approved in a Full Bench decision of this Court in the case of **Smt. Sheela Devi and other Vs. State of UP and others**⁹. The Full Bench in **Smt. Sheela Devi** has observed that it would not be open to the Collector to resolve or enter into the finding of facts of seriously disputed questions such as forgery, fraud and coercion. However, it was left to the discretion of the Collector in each case of determining on the basis of summary proceedings whether the essential requirements of a valid notice of intention to move a motion of no confidence have been fulfilled.

22. The aforesaid judgment of **Smt. Sheela Devi (supra)** has been followed by the Supreme Court in the case of **Kavita Vs. State of Uttar Pradesh**¹⁰. Moreover, in another judgment of the Supreme Court in **Kiran Pal Singh Vs. State of Uttar Pradesh and others**¹¹, it has observed as follows:

“19. To appreciate the controversy, we have to understand the scheme engrafted under Section 15 of the Act. Sub-section (2) of Section 15 provides that a written notice of intention to make the motion in such form as may be prescribed, signed by at least half of the total number of elected members of the Kshetra Panchayat for the time being together with a copy of the proposed motion, shall be delivered in person, by any one of the members signing the notice, to the Collector having jurisdiction over the Kshetra Panchayat. Sub-section (3) requires the Collector to convene a meeting. At this stage, the jurisdiction that the Collector has is only to scan the notice to find out whether it fulfils the essential requirements of a valid notice. The exercise of the said discretion, as we perceive, has to be summary in nature. There cannot be a detailed inquiry with regard to the validity of the notice. We are obliged to think so as sub-section (3) mandates that a meeting has to be convened not later than 30 days from the date of delivery of the notice and further there should be at least 15 days' notice to be given to all the elected members of the Kshetra Panchayat. The Collector, therefore, should not assume power to enter into an arena or record a finding on seriously disputed questions of facts relating to fraud, undue influence or coercion. His only duty is to determine whether there has been a valid notice as contemplated under sub-section (2) of Section 15. His delving deep to conduct a regular inquiry would frustrate the provision. He must function within his own limits and leave the rest to be determined in the meeting.”

23. It is pertinent to mention here that in the judgement of **Smt. Sheela Devi**, this Court has followed the previous

judgment of the Full Bench of this Court in **Mathura Prasad Tewari** (supra), and held as under:-

“15. In our view, both the decisions of the majority as well as the minority essentially follow the same line and the area of dissent is rather narrow. Both the judgments of the majority as well as the minority postulate that the Collector ought not to make a detailed enquiry where serious allegations of fraud, coercion and duress are required to be resolved particularly having regard to the fact that a meeting had to be convened as soon as possible. The area of divergence is only this that whereas the majority left it open to the Collector to determine whether and if so what enquiry should be held, the view of the dissenting judge was that the Collector should hold an enquiry so long as a detailed enquiry into serious questions of coercion or fraud was not involved. In either view of the matter and since we are bound by the judgment of the Full Bench, the law on the subject is thus clear. The Collector, in the course of exercising the power which is conferred upon him, ought not to enquire into seriously disputed questions of fact involving issues of fraud, coercion and duress. Moreover, the Collector must have the discretion in each case of determining on the basis of a summary proceeding whether the essential requirements of a valid notice of an intention to move a motion of no confidence have been fulfilled. Where in the course of the summary enquiry, it appears to the Collector that the written notice does not comply with the requirements of law, the Collector would be within his power in determining as to whether all the required conditions have been fulfilled, as enunciated in sub-section (2) of Section 15. Whether the Collector in a given case has

transgressed his power is separate issue on which judicial review under Article 226 of the Constitution would be available. However, we expressly clarify that we are not laying down a detailed and exhaustive enumeration of the circumstances in which the Collector can determine the validity of a notice furnished under Section (2) or those in which he can make a limited enquiry which, as we have held, he is entitled and competent to make. Ultimately, each case depends upon its own facts and it for the Collector to determine as to whether the objections raised before him are outside the scope of the limited inquiry which he can make upon notice of an intent to move a motion of no confidence if it is submitted to him together with a notice of no confidence.”

24. Thus, the objection, if any, raised before the Collector would serve only a limited purpose. Whether a meeting should be convened or not is a matter between the prescribed authority (in the present case, the Collector) and the signatories delivering notice to it. The Collector while carrying out verification in compliance with the requirement of sub-Section (2) of Section 15 of the Act, 1961, would be at liberty to consider, in those cases which do not warrant a detailed enquiry, whether requirements of valid notice have been fulfilled.

25. It is pertinent to mention here that in the Full Bench decision in **Vikas Trivedi**, this Court considered the nature of a motion of no confidence while relying upon the decisions of the Supreme Court as well as of this Court. It is observed as follows:-

“68. The meeting for considering the motion of no confidence is not a

meeting for proving any charge against the person against whom motion is brought. The proposal of no confidence motion may be one line motion only saying “we express no confidence” or it may be a proposal making allegation against the person. For passing any motion of no confidence proof of any ground or charge is not necessary. It is right of the elected members to express no confidence in Adhyaksha which right has been conceded to the elected members as per statutory provisions.”

26. It is iterated that in the affidavits submitted by 69 members of the Kshettra Panchayat along with objections filed by the respondent no. 3, the signatories of the affidavits have expressed their confidence in Pramukh and have denied their signatures on the written notice as well as their participation in any meeting for formulation of any proposal for motion of no confidence.

27. Further, on 20.3.2025, 34 members of the Kshettra Panchayat, who had signed motion of no confidence appeared before the Collector in person and filed affidavits stating that they were fully satisfied with the manner of working and the work of respondent no.3; that the respondent no.3 has worked for the benefits of the Kshettra Panchayat and has uniformly worked for the development of villages/wards of the entire Kshettra Panchayat; that they express their confidence in respondent no.3; that in case any statement by means of notary affidavit has been submitted against the respondent no.3, it be considered as void. They appeared before the District Magistrate and stated that they are making statements without any duress. Therefore, the District Magistrate held that in view of 34 members of the Kshettra Panchayat (who were

signatories to the written notice) submitting their affidavits in favour of respondent no.3, only 36 members remained, who were signatories to written notice dated 7.3.2025, who are less than half of the total number of members of the Kshetra Panchayat required to move a written notice. Accordingly, the written notice dated 7.3.2025 was found to be not maintainable.

28. In our opinion, such an exercise by the Collector of considering the response of the objector-respondent no.3 by relying on repeated rebuttal affidavits of 12.3.2025 and 20.3.2025, where the signatures on the written notice are denied and no endeavour being made to verify signatures on the written notice from the record of the Kshetra Panchayat, would not be permissible. Therefore, the impugned order of the Collector cannot be sustained.

29. The observations made herein above regarding the written notice and the proposal expressing no confidence can be summarised as follows:-

(i) The written notice, if it reflects clear intention to make a motion of no confidence, it is not mandatory that the written notice be in the prescribed format.

(ii) The written notice is to be signed by at least half of the total number of the elected members of the Kshetra Panchayat. The signatures on the written notice being disputed, it is for the Collector to satisfy himself, prima facie, from the records of the Kshetra Panchayat.

(iii) The copy of the proposed no confidence motion does not require the signatures of any of the signatories to the written notice.

(iv) The proceedings or date/s of any prior meeting of the signatories to the written notice for formulating and resolving the proposed motion of no confidence, is of no consequence. The consideration of the validity of the written notice by the Collector cannot be based on that.

(v) The objections filed to the written notice are for a limited purpose. The Collector may conduct a summary enquiry only to ascertain, without adopting process of detailed enquiry, whether the written notice fulfils the requirements of sub-section (2) of Section 15 of the Act, 1961. The Collector should keep in mind the nature of a motion of no confidence as observed by the Full Bench of this court in **Vikas Trivedi**, which is quoted in paragraph no. 25 of this judgment.

(vi) It is not open to the Collector to resolve or enter into a finding of facts of seriously disputed question such as forgery, fraud, coercion or duress.

30. It would be pertinent to reiterate here that though on 7.3.2025, 12.3.2025 and 20.3.2025, the Collector purportedly directed the CDO/DPRO to furnish a report, however no report was filed by them. But it cannot be said that no enquiry was conducted by the Collector. An enquiry to ascertain validity of a written notice does not require an order setting up an enquiry and for proceedings to be conducted thereafter. Where evidence is recorded, documents are admitted and the Collector comes to a finding, the same would constitute an enquiry. Accordingly and under the facts and circumstances of the case, we find that the Collector in the instant case has done just that, that is, he conducted an enquiry. The enquiry is mandated to be done by the Collector as

defined in Section 2(5) of the Act, 1961, which is required to be a summary enquiry. However, in that enquiry, the Collector has proceeded to record a finding on the basis of rebuttal affidavits with regard to signatures in the written notice that were denied. Thus the demarcated and prohibited realm of disputed factual questions like forgery, fraud, coercion and / or duress has been encroached upon in the enquiry.

31. For the reasons aforesaid, the impugned order dated 20.03.2025 cannot be sustained and is hereby quashed. Since the signatures on the written notice are disputed in some of the rebuttal affidavits, the Collector is directed to satisfy himself, prima facie, after looking into the records of the Kshetra Panchayat. On his satisfaction, he shall proceed to convene a meeting of the Kshetra Panchayat in terms of Section 15 (3) of the Act, 1961. This writ petition is, accordingly, **allowed**.

(2025) 5 ILRA 1497
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 23.05.2025

BEFORE

THE HON'BLE SHEKHAR B. SARAF, J.
THE HON'BLE DR. YOGENDRA KUMAR
SRIVASTAVA, J.

Writ C No. 12360 of 2025

Antram GoyalPetitioner
Versus
Power Grid Neemrana Bareilly
Transmission Ltd. & Ors. ...Respondents

Counsel for the Petitioner:
 Ms. Shreya Gupta

Counsel for the Respondents:

Mr. Pratik J. Nagar

Civil Law - The Indian Telegraph Act, 1885 - Sections 10 & 16 - Under Section 10, the Telegraph Authority is empowered to place and maintain telegraph lines and posts on private land subject to payment of compensation for damage; and under Section 16(1), if such exercise is resisted or obstructed, the District Magistrate may, in his discretion, permit the authority to proceed notwithstanding such resistance. Held : the District Magistrate is not required to pass an order under Section 16(1) of the Act in every case where a person, on whose property the transmission line is being laid, raises an objection or files a representation before the District Magistrate. *District Magistrate is only required to pass an order under Section 16(1) when the Telegraph Authority refers a particular matter to the District Magistrate for passing an order therein.* Petitioner objected to the laying down of transmission lines over his property. Court granted liberty to the Telegraph Authority to refer the matter to the District Magistrate under Section 16(1) of the Act for dealing with the said obstruction/resistance/ representation made by the petitioner. (Para 9, 11)

Allowed. (E-5)

(Delivered by Hon'ble Shekhar B. Saraf, J.)

1. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner, being aggrieved by the action of the Power Grid Neemrana Bareilly Transmission Limited (hereinafter referred to as the 'Power Grid Company'), has prayed for the following substantial reliefs:

“(i) issue a writ, order or direction in the nature of mandamus directing the District Magistrate, Aligarh (respondent no.3) to decide the representation of the petitioner dated 28.3.2025 (Annexure No.6), after providing him with an opportunity of hearing, most expeditiously