



2026:CGHC:6454-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 109 of 2026

Smt. Soni Ajay Banjare W/o Shri Ajay Banjare, Aged About 34 Years R/o House No. 14, Ward No. 14 Ambedkar Nagar, Sarangarh, District Sarangarh Bilaigarh Chhattisgarh

... Appellant

versus

1 - State Of Chhattisgarh Through The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Naya Raipur District- Raipur Chhattisgarh

2 - Joint Secretary, Urban Administration And Development Department, Mahanadi Bhawan Naya Raipur District -Raipur Chhattisgarh

3 - Collector, Sarangarh Bilaigarh, District -Sarangarh Bilaigarh Chhattisgarh

4 - Sub Divisional Officer (Revenue) Sarangarh, District- Sarangarh Bilaigarh Chhattisgarh

5 - Municipal Council Sarangarh, Through The Chief Municipal Officer, Sarangarh, District- Sarangarh Bilaigarh Chhattisgarh

... Respondents

(Cause title taken from Case Information System)

For Appellant	:	Mr. Rajeev Shrivastava, Senior Advocate along with Mr. Jitendra Pali, Advocate
For Respondents/State	:	Mr. Praveen Das, Additional A.G.
For Respondent No.5	:	Mr. R.S. Patel, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, C.J.

05/02/2026

1. Heard Mr. Rajeev Shrivastava, Senior Advocate along with Mr. Jitendra Pali, learned counsel appearing for the appellant as well as Mr. Praveen Das, learned Additional Advocate General appearing for the State and Mr. R.S. Patel, learned counsel appearing for the respondent No.5.
2. This writ appeal, filed under Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006, is directed against the judgment and order dated 19.12.2025 passed by the learned Single Judge of this Court in Writ Petition (C) No. 3629 of 2025, whereby the writ petition preferred by the present appellant assailing the order dated 02.07.2025 passed by the State Government under Section 41-A of the Chhattisgarh Municipalities Act, 1961, removing her from the post of President, Municipal Council, Saranggarh, and disqualifying her from holding the said office for the next term, came to be dismissed. The appellant, who was elected as President of the Municipal Council, Saranggarh, calls in question the legality, correctness, and propriety of the said judgment of the learned Single Judge as well as the underlying action of the State Government, primarily on the grounds that the impugned action is arbitrary, violative of the statutory scheme of the Act of 1961, and results in illegal curtailment of her democratic

mandate.

3. The facts of the case as emerges from the pleadings of the appeal are that, the appellant was elected as a Councillor of the Municipal Council, Saranggarh, in the local body elections and was thereafter elected as the President of the Municipal Council, Saranggarh, with effect from 03.01.2022. During her tenure, the affairs of the Municipal Council were administered in accordance with the provisions of the Chhattisgarh Municipalities Act, 1961, and the Rules framed thereunder.
4. It is not in dispute that during the appellant's tenure as President, certain parcels of municipal land situated at different locations within the limits of Municipal Council, Saranggarh, were allotted on lease to private individuals for construction or extension of shops. These allotments pertained to small parcels of land adjoining existing shops and were approved through resolutions of the President-in-Council (PIC) and subsequently placed before the General Body of the Municipal Council.
5. The record further reveals that in respect of the said allotments, possession of the municipal land was handed over to the beneficiaries prior to obtaining approval of the State Government, and before completion of the statutory process prescribed under the Chhattisgarh Municipalities (Transfer of Immovable Property) Rules, 1996. The allotments involved alienation of municipal land on lease basis for specified periods upon payment of premium and rent.

6. On the basis of complaints received alleging irregular and unauthorized allotment of municipal land, the matter was examined by the Urban Administration and Development Department. Consequently, a show cause notice dated 12.03.2025 was issued to the appellant invoking Section 41-A of the Chhattisgarh Municipalities Act, 1961, calling upon her to explain as to why she should not be removed from the post of President and disqualified on the allegation that municipal land had been allotted in violation of statutory provisions.
7. The appellant submitted her reply to the show cause notice denying the allegations and contending, *inter alia*, that the allotments were made pursuant to resolutions of the President-in-Council and the Municipal Council, that the purpose of the allotments was to enhance municipal revenue, and that there was no *mala fide* intention or personal gain involved. The appellant further asserted that the decisions were collective in nature and were implemented by the Chief Municipal Officer.
8. After considering the reply submitted by the appellant, the inquiry material, and the relevant statutory provisions, the State Government passed an order dated 02.07.2025 holding that the allotment of municipal land had been made without following the mandatory statutory procedure and without prior approval of the competent authority. The State Government, being of the opinion that the continuance of the appellant as President was not desirable in public interest, exercised its powers under Section 41-A of the Act, 1961, and ordered her removal from the post of

President along with disqualification for the next term.

9. Aggrieved by the said order, the appellant approached this Court by filing W.P.(C) No. 3629 of 2025. The learned Single Judge, after considering the pleadings, statutory scheme, and the submissions advanced by the parties, dismissed the writ petition by judgment dated 19.12.2025, holding that the action of the State Government did not suffer from illegality or arbitrariness. Challenging the said judgment, the appellant has preferred the present writ appeal.
10. Learned counsel for the appellant submits that the impugned judgment passed by the learned Single Judge and the consequential order dated 02.07.2025 passed by the State Government are *ex facie* illegal, arbitrary, and unsustainable in law. It is contended that the drastic power under Section 41-A of the Chhattisgarh Municipalities Act, 1961 has been invoked in a mechanical manner without satisfying the mandatory statutory preconditions and without recording any finding of grave misconduct, abuse of power, or *mala fide* intention attributable to the appellant.
11. It is argued that the allotment of municipal land was not an individual or unilateral act of the appellant, but a collective decision taken by the President-in-Council and subsequently ratified by the General Body of the Municipal Council in accordance with the statutory scheme. The learned counsel submits that the President merely presides over meetings and does not exercise exclusive or determinative authority over such resolutions. In absence of any

specific finding of individual culpability or mens rea, fastening personal liability upon the appellant is impermissible in law.

12. Learned counsel further submits that the alleged irregularities, even if assumed to be true, constitute at best procedural or technical lapses, devoid of any element of personal gain, corruption, or intentional wrongdoing. Relying upon the judgments of the Hon'ble Supreme Court in **Tarlochan Dev Sharma v. State of Punjab, Ravi Yashwant Bhoir v. District Collector, Raigad**, and **Sharda Kailash Mittal v. State of M.P.**, it is contended that removal of an elected office bearer cannot be sustained on the basis of isolated or innocuous errors, and that Section 41-A can be invoked only in cases involving grave, habitual, or mala fide misconduct.
13. It is further submitted that the impugned action suffers from a jurisdictional error, inasmuch as disqualification under Section 41-A(2) was imposed without first validly exercising the power of removal under Section 41-A(1) in the manner prescribed by law. According to the learned counsel, the statutory scheme does not permit independent or standalone invocation of disqualification, and therefore the entire proceedings are vitiated for non-compliance with the mandatory statutory sequence.
14. It is also submitted by the learned counsel for the appellant that the action of the respondent authorities is discriminatory and only to remove the appellant from the post of President, Municipal

Council, Sarangarh. The appellant and other Councillors were held guilty of misconduct by the inquiry report dated 20.03.2023 (Annexure R/2). However, the Councillors have not been served with the relevant documents and the inquiry report and the appellant was served with the inquiry report and show cause notice, so that the Councillors may get benefit of technical flaw and they may come back. He would also submit that the Councillors have filed their writ petition bearing WPC No. 2923 of 2025, challenging the order dated 05.06.2025 and the said writ petition was allowed on that very ground i.e. non-supply of relevant documents to them along with the show cause notice and the matter was remitted back vide order dated 06.11.2025. The discriminatory and arbitrary act of the authorities concerned clearly demonstrates the mala fide against the appellant only to remove her from the post of President.

15. Lastly, learned counsel submits that the impugned action results in disproportionate and irreversible consequences, as it nullifies the democratic mandate of the electorate without any compelling justification. It is urged that the learned Single Judge failed to apply the settled principle of strict construction of disqualification provisions and did not consider less drastic statutory alternatives. On these grounds, it is prayed that the writ appeal be allowed, the impugned judgment be set aside, and the order dated 02.07.2025 be quashed.
16. Per contra, Mr. Praveen Das, learned Additional Advocate General

appearing for the State submits that the writ appeal is wholly devoid of merit and is liable to be dismissed, as the impugned judgment passed by the learned Single Judge does not suffer from any legal infirmity, perversity, or jurisdictional error. It is contended that the State Government has exercised its statutory powers strictly in accordance with Section 41-A of the Chhattisgarh Municipalities Act, 1961, after affording due opportunity of hearing to the appellant and upon recording a reasoned satisfaction that her continuance as President of the Municipal Council was not desirable in public interest.

17. It is submitted that the material placed on record clearly establishes that municipal land was allotted on lease in violation of the mandatory statutory provisions, particularly without obtaining prior approval of the State Government as required under the Chhattisgarh Municipalities (Transfer of Immovable Property) Rules, 1996, and that possession of such land was handed over even before completion of the statutory process. Such unauthorized alienation of public property, even if on lease basis, constitutes a serious administrative impropriety warranting action under Section 41-A of the Act.
18. Learned counsel for the State further submits that the plea of collective decision-making raised by the appellant is misconceived. The appellant, being the elected President of the Municipal Council, occupied a position of trust and was responsible for ensuring that all resolutions and actions of the Council conformed

to statutory requirements. The record demonstrates that the appellant presided over the meetings in which the impugned resolutions were passed and failed to prevent or rectify patent illegality, thereby rendering her accountable for the consequences thereof.

19. It is contended that the judgments relied upon by the appellant, including Tarlochan Dev Sharma and Ravi Yashwant Bhoir, are clearly distinguishable on facts. In the present case, the action of the appellant cannot be characterized as an isolated or innocuous lapse, but reflects systematic disregard of statutory safeguards governing disposal of municipal property, which directly affects public interest. The State Government, therefore, rightly formed the opinion that the continuance of the appellant in office would be detrimental to the interests of the Municipal Council and the public at large.
20. Lastly, it is submitted that the power to order disqualification under Section 41-A(2) is consequential and was validly exercised along with the order of removal. The contention regarding lack of jurisdiction or procedural impropriety is unfounded. The learned Single Judge has correctly appreciated the statutory scheme and the factual matrix, and no ground is made out for interference by this Court in exercise of appellate jurisdiction. Accordingly, it is prayed that the writ appeal be dismissed.
21. Mr. R.S. Patel, learned counsel appearing for Respondent No. 5

submits that the writ appeal is misconceived so far as this respondent is concerned and deserves to be dismissed at the threshold. It is contended that Respondent No. 5 has neither exercised any statutory power nor played any independent role in the decision-making process which is under challenge. The entire action impugned in the present proceedings emanates from the statutory authority of the State Government, and therefore no adverse relief can be claimed against Respondent No. 5.

22. It is further submitted that Respondent No. 5 acted strictly in accordance with the resolutions passed by the Municipal Council and within the framework of the statutory provisions governing municipal administration. At no stage did Respondent No. 5 act in excess of authority or in violation of any statutory rule. The records do not disclose any mala fide intention, arbitrariness, or personal gain attributable to Respondent No. 5.
23. Learned counsel submits that the appellant has failed to plead or establish any specific allegation against Respondent No. 5, except making general and omnibus assertions. In the absence of clear pleadings and cogent material, no adverse inference can be drawn against this respondent. It is a settled principle of law that vague allegations without substantiation cannot be made the basis for fastening liability or granting relief against a party.
24. It is further contended that Respondent No. 5 is, at best, a proper party and not a necessary party to the present lis. Even assuming,

without admitting, that there was any procedural irregularity at the level of the Municipal Council, the same cannot be attributed to Respondent No. 5, who had no final authority or decision-making power in the matter. Hence, the continuation of proceedings against Respondent No. 5 is unwarranted.

25. Lastly, learned counsel submits that the learned Single Judge has rightly dismissed the writ petition after due consideration of the facts and law applicable to the case. No ground has been made out for interference in appeal, particularly insofar as Respondent No. 5 is concerned. It is therefore prayed that the writ appeal be dismissed with costs, and the name of Respondent No. 5 be discharged from the array of parties.
26. We have heard learned counsel for the parties and gone through the records of the writ appeal as well as writ petition with utmost circumspection.
27. We have bestowed our anxious consideration to the rival submissions advanced by learned counsel for the parties and have meticulously examined the record of the case, the impugned order dated 02.07.2025 passed under Section 41-A of the Chhattisgarh Municipalities Act, 1961, as also the judgment dated 19.12.2025 rendered by the learned Single Judge. The issue which falls for consideration before this Court is whether the extraordinary power of removal of a democratically elected Municipal President under Section 41-A of the Act, 1961 has been exercised in consonance

with the statutory mandate, settled principles of administrative law, and the law laid down by the Hon'ble Supreme Court.

28. At the outset, it is apposite to reiterate that Section 41-A of the Act, 1961 is a drastic and exceptional provision, having the effect of truncating the tenure of an elected representative and nullifying the mandate of the electorate. The Hon'ble Supreme Court in **Sharda Kailash Mittal v. State of M.P., (2010) 2 SCC 319**, has unequivocally held that the power under Section 41-A can be invoked only for "*very strong and weighty reasons*" and not for minor or technical irregularities. Removal under Section 41-A carries serious civil consequences, including stigma and disqualification, and therefore the provision must receive strict construction.
29. The Hon'ble Supreme Court in **Tarlochan Dev Sharma v. State of Punjab, (2001) 6 SCC 260**, has further clarified that "abuse of power" does not encompass every error of judgment or procedural lapse. A singular or bona fide error, or an honest though erroneous exercise of power, does not constitute abuse of power. What is required is a course of conduct involving wilful abuse or dishonest intention, rendering the elected office-bearer unworthy of continuing in office. This principle has been consistently reaffirmed in **Ravi Yashwant Bhoir v. District Collector, Raigad, (2012) 4 SCC 407**, wherein it has been held that removal of an elected representative is quasi-judicial in nature and must strictly comply with statutory safeguards and principles of natural justice.

30. The Hon'ble Supreme Court in **Ravi Yashwant Bhoir (supra)** has categorically held that where a decision is taken collectively by a statutory body, individual liability cannot be imposed unless there is a specific finding of dominant role, mens rea, or manipulation of the decision-making process. The learned Single Judge, with respect, failed to appreciate this settled position of law and erred in upholding the impugned order by attributing personal responsibility to the appellant for a collective decision of the Council.
31. Equally significant is the requirement of strict adherence to the statutory procedure. The maxim repeatedly affirmed by the Hon'ble Supreme Court, including in **Chief Information Commissioner v. State of Manipur, (2011) 15 SCC 1**, is that "*where a statute provides for doing a thing in a particular manner, it must be done in that manner alone or not at all.*" If the law or rule is specific, the same cannot be violated on considerations of equity or administrative convenience. In the present case, even assuming that the State was of the opinion that the allotments were irregular, the extreme step of removal could be resorted to only upon strict satisfaction of the statutory pre-conditions.
32. Upon due consideration of the submissions advanced by the learned counsel for the appellant and the material placed on record, it becomes evident that the impugned action of the respondent authorities is vitiated by arbitrariness, hostile discrimination, and violation of the principles of natural justice. Although the inquiry report dated 20.03.2023 (Annexure R/2)

allegedly held the appellant as well as other Councillors guilty of misconduct in respect of decisions taken collectively by the President-in-Council and ratified by the Municipal Council, the inquiry report and relevant documents were supplied only to the appellant along with a show cause notice, while the other Councillors were deliberately denied the same. This selective supply of material enabled the Councillors to successfully challenge the order dated 05.06.2025 in WPC No. 2923 of 2025, which was allowed on 06.11.2025 on the sole ground of non-supply of relevant documents, and the matter was remitted for fresh consideration. Despite the inquiry report itself attributing specific responsibility for procedural lapses, premature issuance of permissions, defective execution of lease deeds, and non-compliance with statutory formalities to the Chief Municipal Officer and the Revenue In-charge, no proportionate or corresponding action has been taken against them, whereas the appellant alone has been subjected to the extreme penalty of removal and disqualification. Such selective disclosure of material, differential treatment to similarly situated persons, and singling out of the appellant without any specific finding of individual culpability clearly disclose a predetermined, discriminatory, and mala fide approach aimed solely at removing the appellant from the post of President. This conduct not only offends the principles of natural justice, equality before law, and fair play, but also falls short of the mandatory requirement under Section 41-A of the Chhattisgarh Municipalities Act, 1961, which obliges the State Government to

form an objective opinion that the continuance of the President is not in public interest and that she has acted against the interest of the Council an essential statutory condition which does not appear to have been duly satisfied in the present case.

33. We also find substance in the contention that the proviso to Section 41-A, which mandates a reasonable and effective opportunity of hearing, has not been complied with in its true spirit. Reasonable opportunity necessarily includes supply of all material relied upon and meaningful consideration of the defence raised. The learned Single Judge failed to notice that mere formality of hearing does not satisfy the statutory requirement when the reasoning is mechanical and conclusions are pre-determined.
34. The reliance placed by the respondents on the judgment of the Hon'ble Supreme Court in **Election Commission of India v. Bajrang Bahadur Singh, (2015) 12 SCC 570**, is misplaced in the facts of the present case. The said judgment reiterates the binding nature of statutory consequences once illegality is conclusively established. However, it does not dilute the requirement that removal of an elected office-bearer must still satisfy the threshold of grave misconduct and strict procedural compliance, which is conspicuously absent herein.
35. In view of the foregoing discussion, we are of the considered opinion that the learned Single Judge erred in law in dismissing the writ petition and in upholding the impugned order dated

02.07.2025. The exercise of power under Section 41-A in the present case does not meet the statutory threshold of strong, compelling, and weighty reasons, nor does it reflect strict compliance with the procedure established by law.

36. Consequently, the writ appeal is **allowed**. The judgment dated 19.12.2025 passed in WPC No. 3629 of 2025 and the impugned order dated 02.07.2025 are hereby set aside.

37. However, it is made clear that this Court has not expressed any opinion on the merits of the allegations. Liberty is reserved to the State Government to initiate and pass a fresh order strictly in accordance with Section 41-A of the Chhattisgarh Municipalities Act, 1961, the applicable Rules, and the law laid down by the Hon'ble Supreme Court and this Court, within a period of two weeks from the date of receipt of this order. Needless to state, if such proceedings are initiated, the appellant shall be afforded full and effective opportunity of hearing and all statutory safeguards shall be scrupulously followed.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

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HEAD NOTE

Removal and disqualification of an elected Municipal President under Section 41-A of the Chhattisgarh Municipalities Act, 1961 cannot be sustained, where the action is based on collective decisions without specific findings of individual culpability, is vitiated by selective and discriminatory treatment, and is taken without strict compliance with statutory safeguards and principles of natural justice.