

**SUPREME COURT OF AZAD JAMMU & KASHMIR**

[Appellate Jurisdiction]

**PRESENT:**

Raja Saeed Akram Khan, C.J.

Kh. Muhammad Naseem, J.

Raza Ali Khan, J.

**CIVIL APPEAL NO. 16 OF 2024**

**CIVIL MISC. NO. 16 OF 2024**

(Against the judgment of the High Court dated 26.01.2024  
in writ petition No.540/2023)

Shahid Mehmood s/o Muhammad Gulzar r/o Rathoa  
Muhammad Ali, Tehsil and District Mirpur Chairman Council  
Rathoa Muhammad Ali through power of attorney Nadeem  
Mehmood s/o Muhammad Gulzar r/o Rathoa Muhammad Ali,  
Tehsil and District Mirpur.

.... Appellant(s)

VERSUS

Azad Government through Chief Secretary & 14 others.

... Respondents

-:-:-:-:-:-:-:-:-:-:-

For the appellant(s):

Mr. Muhammad Haleem  
Khan, Advocate.

For the respondent(s):

Miss Sumera Naureen Khan,  
Advocate.

Date of hearing: 19.02.2024

**JUDGMENT**

**Kh. Muhammad Nasim, J.-** This appeal, by leave  
of the Court, is directed against the judgment of the High

Court dated 26.01.2024, whereby, the writ petition filed by petitioner, herein, has been dismissed in limine.

2. The brief facts of the case are that the appellant, herein, contested the election of Local Government and was elected as Chairman Union Council, Rathoa Muhammad Ali on 28.02.2023. Respondents No.7 to 14, Members of Union Council, addressed written requisitions on 21.11.2023 to the Secretary Union Council requiring him to convene a special meeting of the local council to consider the motion of no-confidence against the appellant and proforma-respondent (Vice Chairman). On 24.11.2023, the Secretary Union Council issued the agenda of meeting to be held on 30.11.2023, however, on 29.11.2023 the appellant, herein, filed a writ petition before the High Court for setting aside the motion of no-confidence and procedure followed thereby on the ground that as per section 15(3) of the Azad Jammu and Kashmir Local Government Act, 1990 the motion of no confidence is not competent after the expiry of thirty days beyond every interval of six months. The learned High Court dismissed the writ petition in limine through the impugned judgment, hence, this appeal by leave of the Court.

3. The learned counsel for the appellant argued his case on a sole legal point for setting aside the impugned judgment of the High Court that according to Section 15(1) of the Local Government Act, 1990, a Chairman/Vice Chairman, Mayor, or Deputy Mayor of the Local Council shall vacate office if a vote of no-confidence is passed against him, in the prescribed manner, by two third majority or the total number of members constituting the Local Council. He further argued that under Rule 3(2) of the Azad Jammu and Kashmir Local Government (Vote of No-confidence against Mayor, Deputy Mayor, Chairman, and Vice Chairman) Rules, 1996 (Rules, 1996), if the motion of no-confidence is against the Chairman, the requisition should be addressed to the Vice Chairman. However, in this case the requisition was directed to the Secretary Union Council, who being incompetent authority and lacked the power to initiate and conduct a motion of no-confidence against the Chairman and Vice Chairman of the Union Council. In this state of affairs, the whole process of motion of no-confidence is liable to be set at naught.

4. Conversely, Miss Sumera Naureen Khan, Advocate, the learned counsel for the private respondents argued that the judgment passed by the High Court is perfect

and legal one. She added that the section 15(2) of the Local Government Act, 1990 is clear and unambiguous. No doubt a motion of no confidence cannot be moved before expiry of six months from the assumption of office, however, there is no bar on moving a motion of no-confidence after six months nor there is any time bound specification for moving no confidence motion. The only prior condition is to observe first six months for not moving such motion. The appellant assumed the charge on 28.02.2023 and the motion of no-confidence was moved on 21.11.2023, hence, the learned High Court has not committed any illegality while passing the impugned judgment. She placed reliance on the case reported as *Ghualm Rasool vs. Muhammad Saddique* [1993 SCR 5].

5. We have heard the learned counsel for the parties and gone through the record.

6. In this case, the appellant was elected as Chairman Union Council Rathoa Muhammad Ali and was declared as such on 28.02.2023. Subsequently, Members of the Union Council addressed written requisitions on 21.11.2023 to the Secretary Union Council requesting a special meeting to consider a motion of no-confidence against the appellant and

the Vice Chairman. The Secretary Union Council issued an agenda and scheduled the meeting for 30.11.2023. The appellant challenged the motion of no-confidence and the procedure followed thereby by filing a writ petition before the High Court which has been dismissed in limine through the impugned judgment. Before the High Court the appellant has built up his case solely on the basis of section 15 of the Local Government Act, 1990 which reads as under:-

- “15. Vote of No confidence.- (1) A Chairman/Vice Chairman, Mayor of Deputy Mayor of Local Council shall vacate office if a vote of no confidence is passed against him, In the prescribed manner, by two third majority or the total number of members consisting the Local Council.*
- (2) A motion of no confidence against a Chairman or Vice Chairman, Mayor of Deputy Mayor shall not be moved before the expiry of six months from the date of his assumption of the office and a second or subsequent motion shall not be moved except with an Interval of six months between first and second motions or any two subsequent motions.*
- (3) A motion of no confidence shall not be competent after the expiry of thirty days beyond very Interval of six months provided under sub section (2) and in such a situation It shall be deemed to have been moved and rejected for the purpose of sub section (2).*
- (4) ..... ”*

The argument put forth by the appellant before the High Court that a motion of no confidence can only be moved within a one-month period following each six-month period, is not consistent with the language and intent of Section 15(2) and (3) of the Local Government Act. The provision clearly postulates that a motion of no confidence cannot be initiated within six months from the date of assumption of office, and subsequent motions must have an interval of at least six months between them. However, it does not limit the timeframe for initiating a motion of no confidence to a one-month period immediately following the six-month intervals. Instead, it emphasizes that such motions become incompetent after thirty days beyond each six-month interval, meaning that there is no strict deadline of one-month period. Therefore, the appellant's interpretation does not accurately reflect the statutory language or legislative intent and the learned High Court has not committed any illegality while dismissing the writ petition filed by the appellant, herein, on this ground.

7. Moving to the sole argument advanced by the learned counsel for the appellant before this Court. He asserted that according to Section 15(1) of the Local Government Act, 1990, a Chairman or Vice Chairman can

only be removed if a vote of no confidence is passed against them in the prescribed manner. According to him, Rule 3(2) of Rules, 1996, prescribes the manner that if the motion is against the Chairman, it must be addressed to the Vice Chairman, however, in this case, the requisition was incompetently addressed to the Secretary Union Council. Consequently, the appellant contends that the entire motion of no-confidence process should be invalidated. In our opinion, the argument of learned counsel for the appellant is result of misconception. The procedure for requisitioning a special meeting to consider a motion of no confidence against the Mayor, Deputy Mayor, Chairman, or Vice-Chairman of a local council is outlined in Rule 3 of Rules, 1996, which reads as under:-

*“3. Requisition for convening a meeting for moving a vote of no confidence:- (1) Not less than one-half of the total number of members of a local council may, by a written requisition, signed by them, require the convening of a special meeting of the local council to consider the motion of no-confidence against the Mayor, Deputy Mayor, Chairman or Vice- Chairman of the Local Council.*

*(2) If the motion of no-confidence is against the Mayor. or Chairman, the requisition under sub-rule (1) shall be addressed to the Deputy Mayor, Vice-Chairman and if the motion of no-confidence is against the Deputy Mayor or Vice-Chairman, the requisition shall be*

*addressed to the Mayor or Chairman as the case may be.*

(3) *If the motion of no-confidence is against both the Mayor, Deputy Mayor, Chairman and the Vice-Chairman at one and the same time, the requisition under sub-rule (1) shall be addressed to the Chief Officer Municipal Corporation/Municipal Committee or Secretary of the Local Council concerned, as the case may be.*

- (4) .....
- (5) .....
- (6) .....

According to this rule, if at least half of the total members of local council wish to convene such a meeting, they must submit a written requisition signed by them. If the motion targets the Mayor or Chairman, the requisition should be addressed to the Deputy Mayor or Vice-Chairman, respectively. Conversely, if the motion targets the Deputy Mayor or Vice-Chairman, the requisition should be directed to the Mayor or Chairman, respectively. In the event that the motion of no confidence targets both the Mayor and Deputy Mayor or Chairman and Vice Chairman simultaneously, the requisition should be addressed to the Chief Officer Municipal Corporation/Municipal Committee or Secretary of the Local Council concerned. It appears that the learned counsel for the appellant has not gone through sub-rule (3) which is clear and unambiguous.



8. For the above stated reasons, we are of the unanimous opinion that the learned High Court has rightly passed the impugned judgment and no interference by this Court is warranted.

Consequently, finding no force, this appeal is dismissed.

JUDGE  
Mirpur,  
22.02.2024

CHIEF JUSTICE

JUDGE