
(2014) 09 AHC CK 0260
In the Allahabad High Court
Case No : C.M.W.P. No. 49547 of 2014

Alka Devi

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 15-09-2014

Acts Referred:

Citation : (2014) 10 ADJ 179 : (2014) 125 RD 481

Hon'ble Judges : Vivek Kumar Birla, J;Amreshwar Pratap Sahi, J

Bench : Division Bench

Advocate : Saurabh Yadav, Advocate for the Appellant

Judgement

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Amreshwar Pratap Sahi and Vivek Kumar Birla, JJ.—Heard learned Counsel for the petitioner and the learned standing Counsel. The dispute appears to be of initiation of a no confidence motion against the respondent No. 4 who is the elected Block Pramukh of Kshettra Panchayat Ajeetmal, District Auraiya.

2. The petitioner is an elected Member of Kshettra Panchayat Ajeetmal, District Auraiya. She has come up questioning the impugned order dated 30.8.2014 on the ground that the proposal for no-confidence motion and the initiation of notice has not been entertained on a totally erroneous consideration by the respondent authorities.

3. Sri Saurabh Yadav, learned Counsel for the petitioner submits that the term of an elected Pramukh commences with effect from the date of election as per section 9 of the U.P. Kshettra Panchayat and Zila Panchayat Act, 1961. The impugned order therefore incorrectly records that no action is contemplated in respect of the proposal of no-confidence motion keeping in view the provisions of sub-section (13) of section 15 of the 1961 Act.

4. Sri Saurabh Yadav contends that the provisions of sub-section (13) of section 15 cannot override the provisions of section 9 and even otherwise since it

contradicts the logic of section 9, the impugned order deserves) to be quashed and the respondent authority should be directed to proceed with the notice of no confidence motion dated 22.8.2014.

5. It is undisputed that the elections were held on 17th August, 2013 but the respondent No. 4 took formal oath on 15th September, 2013. The issue which is raised before the Court is basically to the effect that once the tenure commences with effect from the date of election as provided under section 9, the notice which is required to be sent only after one year, is very much in order in the present case, inasmuch as, the election was held on 17.8.2013 whereas the notice has been sent after one year on 22.8.2014.

6. Having considered the aforesaid submissions, we are unable to agree with the argument advanced for the simple reason that a notice of no confidence motion under section 15 emanates only upon "assumption of office", and therefore, the period of one year as contemplated under section 15 of the Act commences with effect from the date of assumption of office and not from the date of election.

7. The words assumption of office clearly means the date from which the Block Pramukh or elected Chairman proceeds to take oath and commences his actual functioning thereafter. This assumption of office in the present case has admittedly taken place on 15th September, 2013 which is the date of oath of the respondent No. 5.

8. According to the provisions of section 15 aforesaid, the period of one year will therefore have to be counted from 15th September, 2013 as logically that is the date of commencement of the functioning of the Chairman/Pramukh. The presumption in law therefore is that the functioning commences on the taking of the oath and not from the date of election.

9. Consequently, the contention of the learned Counsel for the petitioner that the term which commences from the date of election under section 9 should be treated as the date of assumption of office, does not hold water.

10. Even otherwise, there is no contradiction at all between section 15(13) and section 9, and applying the golden rule of construction, the words used in a statute have to be interpreted as they exist and it is not for this Court to provide another meaning when the language is unambiguous. The Legislature in the instant case has categorically used the words "assumption of office" and not the date of election for the purpose of initiating and staging a no confidence motion. For the reasons aforesaid, the writ petition lacks merit and is accordingly dismissed.