

(2014) 08 MP CK 0099
In the Madhya Pradesh High Court
Case No : Writ Petition No. 11959/2014

Asha Rani Yadav

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 13-08-2014

Acts Referred:

Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 — Section 14

Citation : (2014) 08 MP CK 0099

Hon'ble Judges : K.K. Trivedi, J

Bench : Single Bench

Advocate : Mrigendra Singh, learned Senior Advocate Assisted by Hitendra Singh, learned counsel, Advocate for the Appellant; Sanjay Dwivedi, learned Govt. Advocate, P.R. Bhawe, learned Senior Advocate Assisted by Mahendra Pateria, Advocate and Rameshwar Singh, learned counsel, Advocate for the Respondent

Judgement

K.K. Trivedi, J.—Heard on admission.

2. The grievance raised in the present petition is that the petitioner is an elected office bearer (President) of the Krishi Upaj Mandi Samiti and notice of no confidence motion was given by some of the members. However, in complete violation of the provisions of Section 14 of M.P. Krishi Upaj Mandi Adhiniyam, 1972 (hereinafter referred to as the Act for brevity), the Collector though is not competent authority to take action, has issued the orders appointing an officer to preside over the meeting of the Krishi Upaj Mandi Samiti for consideration of the said no confidence motion. In turn, the respondent No.2 has issued a notice fixing the date of convening the said meeting on 14.8.2014. It is contended that the Collector is not the competent authority to receive such a notice of no confidence motion nor could initiate any process. The Secretary of the Krishi Upaj Mandi Samiti is required to receive the notice of no confidence motion and to refer the same to the Collector after fixing a date for the special meeting of the Samiti and in that meeting, some officer is required to be nominated by the Collector. It is further contended that in case the date of meeting is not fixed

within a period of 30 days by the secretary of the Mandi after receipt of the notice of no confidence motion, then only the Collector can fix a date in exercise of his power given under the provisions of Section 14 of the Act and fix a date for holding such a meeting. That being so, action initiated by the Collector on his own is violative of the statutory provisions and, thus, such orders and notice are liable to be quashed.

3. Though opportunities were granted, the State counsel could not obtain any instruction. Learned Senior counsel for the intervener has stated that in fact notice of proposing no confidence motion against the petitioner was offered by members to the Secretary of the Krishi Upaj Mandi Samiti, but since such a notice was not accepted, ultimately, the notice was made simultaneously to the Collector, who acted on such a motion and has appointed an Officer to preside over the meeting. According to learned Senior counsel for the intervener, no illegality whatsoever is committed in the matter of convening a meeting for consideration of motion of no confidence against the petitioner. As such, it is submitted that the petition is liable to be dismissed.

4. For proper appreciation and adjudication of rival submissions, it would be necessary to interpret the provisions of Section 14 of the Act, which read thus :-

"14. No confidence motion against Chairman or Vice Chairman - (1) A motion of no confidence may be moved against the Chairman or the Vice- Chairman at a meeting specially convened for the purpose under sub-section (2) and if the motion is earned by a majority of not less than two third of the members present and voting and if such majority is more than one half of the total number of members constituting the Market Committee for the time being, the Chairman or Vice Chairman, as the case may be, against whom such motion is passed, shall cease to hold his office with effect from the date immediately after the date on which such motion is passed.

(2) For the purpose of sub-section (1), a meeting of the Market Committee shall be held in the following manner, namely :-

(i) The meeting shall be convened by the Secretary, on a notice signed by not less than fifty percent of the total number of members constituting the Market Committee for the time being, within thirty days from the date of the receipt of the notice of motion of no confidence;

(ii) The notice mentioned in clause (I) shall also be addressed and simultaneously delivered to the Collector and on failure of the Secretary to convene the meeting as provided in clause (i) the meeting shall be convened by the Collector within fifteen days from the date of expiration of the period of thirty days specified in clause (I) and the provisions of this sub-section shall apply to meeting convened by the Collector as they apply to meeting convened by the Secretary;

(iii) The notice of such a meeting shall specify the date, time and place thereof

and shall be dispatched by the Secretary to every member at least ten clear days in advance of the date of meeting. A copy of the notice shall be sent to Collector for appointment of an officer as required in clause (iv) and a copy shall also be sent to the Managing Director;

(iv) The Chairman or Vice-Chairman shall not preside over the meeting, but such meeting shall be presided over by an officer of the Government as the Collector may appoint for the purpose. However, the Chairman or Vice-Chairman, as the case may be, shall have a right to speak and otherwise to take part in the proceeding of the meeting.

(3) No confidence motion shall not be taken up against the Chairman or Vice-Chairman within the period of-

(i) one year from the date on which the Chairman or Vice Chairman holds the respective offices;

(ii) six months preceding the date on which the term of office of the Chairman or Vice-Chairman, as the case may be, expires; and

(iii) one year, for reconsideration, from the date on which previous motion of no Confidence was disposed of."

5. A bare perusal of Sub-clause (i) and (ii) of sub-section (2) of Section 14 of the Act, will make it clear that the notice proposing a motion of no confidence is required to be given simultaneously to the Collector as well. In case, a date of meeting is not fixed within thirty days from the date of receipt of the notice by the Secretary of the Mandi then only the Collector is required to pass an order fixing a date of meeting. After that the Collector is required to appoint and nominate a person to preside over the meeting to be convened on the date so fixed. In fact, what the Collector has done on receipt of the advance copy of the notice of no confidence motion, that he has appointed an officer to preside over the meeting, but he has not fixed any date of meeting. Even if the notice of motion of no confidence was received by the Secretary subsequently, in fact, he has fixed a date of meeting i.e. 14.8.2012 and has issued notices to all concerned giving them ten clear days time before the date of meeting. Mere appointment of an officer to preside over the meeting to be held for consideration of motion of no confidence, as directed by the Collector, cannot be said to be such a patent illegality on account of which the provisions of the Act are said to be violated. In any case, if after fixing a date, the Secretary was required to ask the Collector to appoint an officer to preside over such a meeting to consider the motion of no confidence, and before that request, the appointment is made, it cannot be said that every action is taken by the Secretary at the behest of the Collector only.

6. Even otherwise, there is a provision made under Section 14-A of the Act where an appeal is provided against a resolution passed on the motion of no confidence which would lie before the Commissioner of the Division. All this can

be examined in such an appeal if at all any motion of no confidence is passed against the petitioner.

7. In view of the aforesaid, interference in such proceedings at this stage, is not permissible or justified.

8. The writ petition fails and is hereby dismissed.