

(1988) 07 KAR CK 0036
In the Karnataka High Court
Case No : W.P. No. 8274/1988

Ashok and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 04-07-1988

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Municipalities Act, 1964 — Section 18

Citation : (1988) 3 KarLJ 596

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-In this petition, the petitioners who were Councillors or Members of the Chikodi Town Municipal Council are aggrieved by the order of the 1st respondent-State of Karnataka dated 23rd May, 1988 superseding the Town Municipal Council and appointing the Tahsildar, Chikodi, as the Administrator. On 14-2-1988 this matter was heard in great detail. In fact, the Court had earlier directed the Government Pleader to ascertain from the Government as to why the extension of the term of office was extended only upto 30th June, 1988 which would prevent the Councillors from participating at the elections to be held to the Upper House of the Karnataka Legislature from the Local Authorities constituency. In response to that, the Government Pleader pointed out that the term of office in accordance with Section 18(1A) of the Karnataka Municipalities Act, 1964(hereinafter referred to as the Act) shall commence from the date of publication of the elected Councillors' name or immediately after the expiry of the term of office of the out going Councillors which ever is later. Otherwise, the term is fixed by sub-section (1) of Section 18 of the Act as four years subject to Government extending the term prospectively or retrospectively for such period or periods which shall not exceed 24 months in all.

2. In the instant case, it is not in dispute that the term of office of the petitioners expired on 11-8-1987. A little before that date the Government by an order under the proviso to sub-section (1) of Section 18 of the Act extended the term of office of the petitioners and their colleagues till 31-3-1987 as elections could

not be held prior to 11-8-1987. However, elections were not held or could not be held before 31-12-1987. Therefore, the term was further extended by the Government upto 30th June, 1988. In other words, the petitioners themselves rely upon the order which extended the term upto 30th June 1988 to determine their term of office. If it has come to an end by operation of law and efflux of time then they have no right to continue in office except by the enabling provision made for extension prospectively or retrospectively. If they had the benefit of the order and that benefit ceased on the expiry of the 30th June 1988 then there is nothing that this Court may do to interfere with the government's discretion to extend or not to extend the term. There is no legal compulsion in every case for the Government to extend the term of office of the Councillors. If they have not chosen to do that in the case of the Chikodi Town Municipal Council and have appointed an Administrator with effect from the date of supersession which is 23rd Kar. 1988. Upto 23rd Kar, 1988 the petitioners continued only by virtue of the extension granted to them by the Government in exercise of its power under sub-section (1) of Section 18 of the Act. Even if that period has expired, then the Councillors having ceased to hold office cannot make a grievance of the supersession order which even if it is held to be invalid for any reason cannot put them back in office.

3. Therefore, this writ petition has become infructuous by efflux of time and it is rejected.