

**(1965) 09 MAD CK 0015**

**In the Madras High Court**

**Case No : Writ Petition No. 2349 of 1965**

B. Gnanaraj

APPELLANT

Vs

A.M. Vedanayagam and Another

RESPONDENT

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**Date of Decision :** 21-09-1965

**Acts Referred:**

**Citation :** AIR 1966 Mad 372

**Hon'ble Judges :** Srinivasan, J

**Bench :** Single Bench

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## **Judgement**

(1) A writ of prohibition is sought to prevent the first respondent, the Chairman of the Panchayat Union Council, from proceeding to consider

certain subjects in the following circumstances. On 22-5-1965, the first respondent called for two special meetings and one ordinary meeting of the

Panchayat Union Council. The two special meetings were for the purpose of electing the Vice Chairman and a member to the appointments

committee. The ordinary meeting was to consider 55 subjects detailed in the agenda relating to matter of administration. Items 56 to 58 on the

agenda related to the election of members to certain Committees and for the co-option of women members to the council. The first of the special

meetings was held at 2 P. M. and the Vice Chairman was elected. The second special meeting was held at 3 P. M. and a member was elected as

a member of the appointments Committee. When the ordinary meeting commenced, the very first subject on the agenda led to considerable

controversy. Apparently, at the special meetings referred to earlier, persons whose candidature was supported by the Chairman failed to get

elected. For that reason, it is alleged, the Chairman thought that he would not

have sufficient majority when it came to dealing with the subject set down in the agenda. He abruptly announced, that the meeting was adjourned and walked out of the council hall taking the minutes book with him; his adherents, 13 in number, departed with him. Even the first subject which had been discussed was not decided. The first respondent, it is claimed, had no right to adjourn the meeting in this manner. Thereafter, the remaining 18 members continued the meeting with the Vice Chairman presiding over it. They sent for the minutes book from the Commissioner, but the Commissioner did not produce it. The meeting proceeded to consider the subjects on the agenda, recorded its proceedings and forwarded the record to the Commissioner of the Union Council and the Revenue Divisional Officer, Tuticorin.

(2) On 2-6-1963, the Chairman issued a notice calling for a meeting of the council at 2 P. M. On 9-6-1965, for considering the very subjects which had been on the agenda of the meeting on 22-5-1965. The petitioner has come to this court contending that at a meeting validly conducted in the circumstances stated, these subjects had been dealt with by the Panchayat Union Council and that the first respondent is not competent to call for a meeting for a consideration of these very same subjects. The decisions taken at that meeting are, it is said, the decisions of the council. The adjournment of the meeting by the Chairman was not done under proper authority, he having no individual power to adjourn the meeting, It is thus the contention of the petitioner, who is a member of the Union Council, that the first respondent, is incompetent to call for a meeting to consider these subjects which had been validly dealt with by the Union Council.

(3) On behalf of the Chairman, it is not denied that the first two special meetings were conducted. It is stated however that when the first subject was taken up at the ordinary meeting, the petitioner and his men obstructed the smooth proceeding of the Union Council. The first respondent also states that members belonging to both parties were very much agitated. Until 5-30 P.M. no conclusion could be arrived at. "I further held that the proceedings of the Council could not be carried on smoothly. Further, some members who came from distant villages insisted on an adjournment of the meeting since it was getting late for them to go back home. I therefore adjourned the meeting at about 5-30 p.m. recorded the same in the

minutes book and announced to the members that the meeting has been adjourned.....

The contention of the first respondent is accordingly that the meeting was adjourned by him for valid reasons and that he is entitled to do so. It is

also claimed by him that the meeting alleged to have been conducted by the Vice Chairman after the meeting was so adjourned by him, the first

respondent, is not a valid one. Reference has been made to G. O. Ms. 282 R. D. and L. A. dated 19-9-1961, which purports to contain

instructions which enabled the Chairman to adjourn any meeting of the council for valid reasons.

(4) At the outset I may state that the question has not been argued before me with regard to the validity of the decisions taken by the meeting

subsequently continued by the Vice Chairman. The arguments addressed before me only canvassed the extent of the power of a Chairman to

adjourn a meeting which had been lawfully called and the authority of the members to hold the meeting after the Chairman had unauthorisedly

purported to adjourn the meeting. I address myself only to that aspect of the matter.

(5) It is the contention of Mr. T. R. Mani, learned counsel for the petitioner, that a Chairman of a meeting has no individual or overruling power of

the description claimed and that if he adjourns a meeting, he can do so only on a mandate from the members present. He cannot adjourn a meeting

except when the members present record their decision that the meeting should stand adjourned. It is the contention of the petitioner in this case

that the wishes of the members present were not ascertained at all and that the Chairman arbitrarily closed the meeting only for the reason that he

thought his party would not be able to have an effective voice at the moment.

(6) It is common ground that the rules for the conduct of meetings do not confer any special power upon the Chairman. Halsbury, 3rd, Edn. Vol.

6, paragraph 663, deals with adjournments of meetings. The principles laid down therein appear to be a general application, though it is with

reference to companies, their regulation and management that these statements have been made by the author. It states:-

Except where empowered by the regulations of the company, the Chairman cannot adjourn the meeting, nor dissolve it, while any of the business

for which it was called remains untransacted, and if he refuses to act, the meeting may elect another Chairman. If he has the right with the consent of the meeting to adjourn it, the majority of the members present at the meeting cannot compel him to do. He cannot, however, adjourn or dissolve the meeting against the wish of the majority:

From this passage, it appears that except when he is armed by special power by a rule or regulation, the Chairman cannot adjourn a meeting. If he adjourns it validly, that is, after obtaining the concurrence of the majority of the members present, a meeting on the adjourned date would for all purposes be a continuation of the original meeting. Blackwell in his "Law of Meetings" IV Edn., deals with the powers of a Chairman thus.

As to the Chairman's power of adjournments at common law, the Chairman of public body, invested with public duties has no power to adjourn against the wishes of the meeting..... when the business is done, the Chairman can, of course, adjourn the meeting.

(7) Referring to King v. Gaborian, 1809 11 East 77 the observations of Lord Ellenborough C. J. Are extracted as hereunder:

An assembly was regularly convened for the purpose of nominating and electing a new Mayor, over which the then Mayor presided. He declared that the persons with whom the power of nomination vests, were divided three and three and consequently that no election could be made and thereupon he directed a proclamation to be made for dissolving the assembly. Nobody objected at the time to all this; still less was any notice given that if the Mayor departed those who chose to remain would notwithstanding proceed to complete so much of the election as still remained to be made. But they suffered the Mayor to depart and many of the Freeman with him upon a supposition that no further proceedings would be then had. This silence and acquiescence at the time by those who afterwards proceeded to make the election operated as a surprise and fraud upon the other electors and therefore the election made by them under such circumstances cannot be borne out by the statute.

The case cited would have application when it comes to be considered whether the subsequent meeting conducted by the Vice Chairman would be valid. In Shackleton "On the law and Practice of Meetings" it is also stated that there is a power at common law to adjourn a meeting, but the

right is vested in the assembly itself, unless there are particular regulations which vest this power in the Chairman.

(8) It is unnecessary to make reference to the English decisions, for it is on the basis of these decisions that these observations have been made in

the text books referred to. In Gopal Narayan Kulkarni Vs. Sanmukhappa Ningappa Angadi, , a similar question arose. Following the English

cases, the learned Judges took the view that it is the duty of a Chairman to preserve order, conduct meetings regularly and take care that the sense

of the meeting is properly ascertained with regard to any question before it. But he has no power to stop or adjourn a meeting at his own will and

when he purports to do so, it is open for the meeting to resolve to go on with the business for which it has been convened and to appoint another

Chairman for that object. It is argued on behalf of the first respondent Chairman by Mr. K. V. Sankaran, learned counsel, that the first respondent

adjourned the meeting precisely for the reason that the meeting had become somewhat disorderly and secondly that some of the members wanted

to return to their villages and it was getting late. That is so stated in the record of the minutes made by the first respondent. But this statement is

completely denied on behalf of the petitioner. It cannot however be denied as a matter of fact that 18 members stayed behind and purported to

continue the meeting. The record made by the first respondent in the minutes book does not establish that the adjournment of the meeting was put

to the assembly or that the sense of the assembly was in favour of the adjournments. The minutes recorded by the Chairman reads thus:

Since some of the members more particularly, Gnanaraj (petitioner) and Lakshmana Perumal, spoke in such a manner that I feel that only

confusion will result, as it is also 5-30 p.m. and several members desire to go home, this meeting is adjourned sine die"".

There is no suggestion that the Chairman in coming to this decision was supported by the majority of the members present nor can I find any

support for the contention that the meeting broke into disorder which necessitated its adjournment. When 18 members were solidly on one side

and continued at the meeting, that fact speaks for itself and contradicts the Chairman's allegation of the impossibility to continue the meeting.

(9) Reference has been made on behalf of the Chairman to a Government Order. This Government Order does not purport to have been issued in

the form of a rule under the rule-making power. The Government observe that the rules relating to the mode of transaction of business at meetings

of the Panchayat Union Councils do not contain any provision to meet situations where the Chairman adjourns a meeting without completing the

items on the agenda. Government refers to certain model regulations commended to the Municipal Councils for adoption. One of such regulations

is that any meeting of the Municipal Council may be adjourned by the Chairman for valid reasons to be recorded in writing in the minutes book and

this procedure was commended to the Panchayat Union Councils also for adoption. While this Government Order may have a some advisory

force, I am unable to accept it as having any binding force as a rule made in the exercise of any power under the statute, or as conferring any

power on the Chairman, in his individual capacity, to adjourn the meeting. I am also informed that these model regulations have not been adopted

by any Municipal Council.

(10) On the facts, I am satisfied that the Chairman acted without authority, in adjourning the meeting on 22-5-1965, I also hold that that the

majority of the members were competent to continue the proceeding. But I however express no opinion with regard to the validity of any decisions

taken at such meeting, more particularly for the reason that certain of the items in the agenda dealt with after the illegal adjournment are said to deal

with matters which require convening of a special meeting and could not be dealt with at an ordinary meeting. The rule is made absolute. There will

however be no order as to costs.

(11) Rule made absolute.