(2009) 02 AP CK 0036

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3784 of 2009

B. Padmavathi APPELLANT

Vs

Revenue Divisional Officer and Others RESPONDENT

Date of Decision : 26-02-2009

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1994 — Section 245
Andhra Pradesh Panchayat Raj Rules — Rule 3

Citation : (2010) 3 ALD 78 : (2009) 3 ALT 635

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : O. Manohar Reddy, for the Appellant; G.P. for Panchayat Raj for Respondent No. 1 and K. Rathangapani Reddy, for Respondent Nos. 2 and 13, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner was elected as President of Mandal Praja Parishad, Kodumuru Mandal, Kurnool District, in the year 2006. Respondents 2 to 13 submitted a requisition to the Revenue Divisional Officer, Kurnool, the first respondent, in Form-II of the Rules framed through G.O.Ms. No. 200, dated 28.04.1998, issued under the Andhra Pradesh Panchayat Raj Act, 1994, with a request to convene the meeting of the Mandal Parishad to discuss of motion of No Confidence against the petitioner. The first respondent issued a notice, dated 13.12.2008 in Form-V proposing to convene the meeting on 27.12.2008. The petitioner filed W.P. No. 28378 of 2008 challenging the notice, on the ground that 15 clear days is not maintained between date of notice and date of meeting. The writ petition was allowed on 29.01.2009, leaving it open to the first respondent to issue fresh notice.

2. The first respondent issued notice dated 04.02.2009, proposing to convene the meeting on 27.02.2009. The petitioner submits that the first respondent has no power to issue second notice, since none of the contingencies mentioned in

proviso to Rule 3 of the Rules exist. It is contended that according to the proviso to Rule 3, a fresh notice can be issued, only when the holding of meeting in pursuance of a notice issued earlier, was stayed, and in the instant case, the meeting in pursuance of the notice, dated 13.12.2008, has already been held. Other grounds are also urged.

3. Heard Sri O. Manohar Reddly, learned Counsel for the petitioner, learned Government Pleader for Panchayat Raj and Sri K. Ratangapani Reddy, learned Counsel for respondents 2 to 13.

4. Acting on the notice in Form-II, delivered by respondents 2 to 13, the first respondent issued notice, dated 13.12.2008, in Form-V, proposing to convene the meeting on 27.12.2008. The said notice was challenged. All the same, the meeting was held, subject, however, to the result of the writ petition. The writ petition was ultimately allowed, leaving it open to the first respondent to issue fresh notice in Form-V.

5. Placing literal interpretation on the proviso to Rule 3, the petitioner contends that once the meeting was held on 27.12.2008, there did not exist any scope for the first respondent to issue another notice. This contention cannot be accepted for two reasons. Firstly, this Court specifically permitted the first respondent to issue fresh notice, in Form-V. The petitioner did not challenge that observation. Therefore, it is not open to her to take that plea. Secondly, the object underlying proviso to Rule 3 is that, if the steps initiated through notice in Form-II against a President or Vice-President of a Mandal are scuttled by the Court before they reach finality, the remaining exercise must be carried out once the impediment is removed. Though the meeting was held on 27.12.2008, it was subject to the outcome of W.P. No. 28378 of 2008 and the writ petition was ultimately allowed, setting aside the notice, dated 13.12.2008, as well as the consequences thereof. May be that the Rule making Authority did not contemplate such a situation. But, if one goes by the spirit underlying the Rule and the fact that the proceedings initiated u/s 245 of the A.P. Panchayat Raj Act, 1994 and the Rules made thereunder were not set aside, as being without jurisdiction, it is but natural that the exercise must be continued, till it reaches the logical conclusion. Viewed from this angle, it becomes clear that the notice, dated 04.02.2009, issued in Form-V by the first respondent, cannot be said to be illegal.

6. The writ petition is accordingly dismissed. There shall be no order as to costs.

