
(1988) 07 GUJ CK 0016
In the Gujarat High Court

Balugiri Manigiri Goswami

APPELLANT

Vs

Additional Development Commissioner, Gujarat State and
Others

RESPONDENT

Date of Decision : 13-07-1988

Acts Referred:

Gujarat Panchayats Act, 1961 — Section 60(5)(a)

Citation : (1989) 2 GLR 808

Hon'ble Judges : R.J. Shah, J;A.M. Ahmadi, J

Bench : Division Bench

Judgement

A.M. Ahmadi, J.—The appellant is the original petitioner He was elected as a member of the Bayad Taluka Panchayat (District Sabarkantha) on a Janata Party ticket at the election held sometime in January 1987 was subsequently elected as the President of the Taluka Panchayat on February 24, 1987. The respondent No. 4 was also elected as a member of the said Panchayat on a Congress (I) ticket. It appears that respondent No. 4 moved a notice of no confidence against the petitioner on Mas 16, 1988. As required by Section 60(5)(a) of the Gujarat Panchayats Act 1961, (hereinafter called "the Act") the petitioner called a meeting of the Panchayat on June 7, 1988. It is the case of the petitioner that at the said meeting the discussion on the no confidence motion was held but thereafter the meeting was adjourned to June 15, 1988. It seems that after the meeting was so adjourned, the Secretary of the Taluka Panchayat submitted a report to the District Development Officer (respondent No. 2) who purporting to act under the provisions of Section 294(4) of the Act passed an order dated June 13, 1988 staying the further proceedings on the no confidence motion. As a result of this order the no confidence motion could not be taken up for discussion at the adjourned meeting of June 15, 1988. The matter was taken up in revision by the State Government in exercise of power u/s 306 of the Act. The Additional Development Commissioner (respondent No. 1) passed an order. Annexure "A", dated June 17, 1988 setting aside the order passed by the District Development Officer and directed the District Development Officer to fix the date for next

meeting. The next meeting was fixed on June 22, 1988. Before that meeting could be held, the petitioner filed a suit and obtained an ad interim injunction from the Court of the learned Civil Judge (Senior Division), Himatnagar, on June 21, 1988. Against that order, an appeal was preferred and during the pendency of the appeal the suit itself was withdrawn with the result that the appeal was rendered infructuous. The appellate Court, therefore, dismissed the appeal as the time of the meeting had lapsed but directed the District Development Officer to fix the next date for the meeting. Against this order a Civil Revision Application was preferred in this Court but we are told by Counsel that it has been rejected. One further suit was filed against the order of the Additional Development Commissioner in the Court of the learned Civil Judge (Senior Division), Narol, and an ad interim injunction was sought but to restrain the concerned authorities from calling the meeting but no ex parte ad interim injunction was granted whereupon the suit was ultimately withdrawn. It is for this reason that the learned single Judge in his impugned order has mentioned that two suits filed earlier have since been withdrawn. Thereafter the meeting was convened on July 13, 1988, that is, to-day. On July 11, 1988 the petition which has given rise to this appeal was preferred. It was disposed of by the learned single Judge on the next day, that is, July 12, 1988 by a speaking order. The learned single Judge took the view that there was no merit in the contention of the learned Advocate for the petitioner that the maximum upper limit for calling the no confidence meeting was thirty days and since no decision was taken within the said period of thirty days the motion for no confidence had lapsed and could not be considered at any subsequent meeting. In this view that he took, he summarily rejected the petition. It is against that order of the learned single Judge that the present Letters Patent Appeal is preferred.

2. u/s 60(5) of the Act, a meeting of the Panchayat for dealing with a motion of no confidence has to be called within a period of fifteen days from the date on which a notice of such motion is received by the Panchayat. There is no dispute that on receipt of the notice in the form prescribed by Rule 17 of the Rules framed under the Act, the President of the Taluka Panchayat had called a meeting on June 7, 1988. Therefore, the requirement of Sub-section (5)(a) of Section 60 was duly complied with by the petitioner. After the meeting was called on June 7, 1988 it was adjourned to June 15, 1988. Rule 15 of the Rules provides for adjournment of the meeting. It posits that a meeting may, with the consent of the majority of the members present, be adjourned from time to time. The submission of the learned Counsel for the petitioner is that once the discussion on the no confidence motion has commenced the meeting cannot be adjourned. Such a contention cannot be entertained on the plain language of Rule 15, Reference was made to Rule 36 which inter alia provides that a resolution to adjourn the meeting or to postpone the consideration of a question shall take precedence over any other resolution before the meeting. This Rule also does not support the contention of the learned Counsel for the petitioner. It only states that if a proposal to adjourn the meeting is moved, it must get

precedence over any other resolution before the meeting. It goes to show that once there is a resolution for adjournment of the meeting, that resolution must be considered first before any other resolution is considered at the meeting. Therefore, even if during the course of the discussion a resolution for adjournment is moved, that resolution must get precedence and if it is carried, as in the present case, the meeting has to be adjourned. Therefore we see no merit in the submission that once a discussion on the no confidence motion commences the meeting cannot be adjourned.

3. Reliance was next placed on Rule 18 which states that a motion of which a notice has been given under Sub-rule (1) of, Rule 17 shall be considered by the Panchayat at the next ordinary meeting if it is to be held not earlier than the expiry of seven days and not later than the expiry of thirty days after the date of receipt of the notice by the Secretary. Sub-rule (2) of Rule 18 next provides that if an ordinary meeting of the Panchayat is not due at any time during the period specified in Sub-rule (1), a special meeting of the Panchayat shall be convened during that period for considering the motion. On the language of this rule. Counsel submitted that the motion of no confidence has to be considered at a meeting to be held before the expiry of thirty days after the receipt of the motion by the Secretary of the Panchayat. He submitted that in the present case the notice was received on May 16, 1988 and, therefore, it ought to have been considered within a period of thirty days, that is. before June 15, 1988 and if the same has not been considered within the said period, it must be taken as lapsed. We do not see any merit in this contention also. It must be remembered that under Sub-section (5)(a) of Section 60. a meeting of the Panchayat for dealing with a motion of no confidence has to be called within a period of fifteen days from the date on which a notice of such motion is received by the Panchayat. Rule 18. however. states that if the next ordinary meeting of the the Panchayat is to be held "not earlier than the expiry of seven days and not later than the expiry of thirty days after the date of receipt of the notice", the motion may be considered at such an ordinary meeting; but Sub-rule (2) of that rule says that if the ordinary meeting is not due at any time during the aforesaid period, a special meeting of the Panchayat shall be convened during that period for considering the motion. This rule merely states that if the ordinary meeting is to be held not earlier than seven days and not later than thirty days from the date of receipt of the notice of no confidence, it would not be necessary to call a special meeting but otherwise, a special meeting should be convened for considering the motion. This rule nowhere states that if the motion of no confidence is not considered within thirty days, it shall lapse. Under Sub-section (5) (a) of Section 60, a meeting of the Panchayat for dealing with a motion of no confidence has to be "called" within a period of fifteen days from the date of receipt of the motion. Rule 18 merely provides that if the next ordinary meeting is scheduled within thirty days of the receipt of the notice but not earlier than seven days, the no confidence motion may be considered at such ordinary meeting, otherwise a special meeting shall be "convened" during the said period. Section 60(5)(a) lays

down the outer limit for "calling" a meeting whereas Rule 18 lays down the outer limit for "convening" the meeting. The rule does not provide that such meeting will not be adjourned and if the business of consideration of the no confidence motion is not completed within the said period, the motion will lapse altogether. We are, therefore, disinclined to accept this submission. The learned single Judge also did not consider the submission in this behalf as one deserving consideration.

In view of the above, we see no merit in this appeal and summarily dismiss the same. No order on the Civil Application.