
(1952) 09 MAD CK 0021
In the Madras High Court
Case No : Writ Petition No. 200 of 1952

Bojja Venkataraju

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 12-09-1952

Acts Referred:

Madras Village Panchayats Act, 1950 — Section 131, 47(1)

Citation : AIR 1953 Mad 593 : (1953) 1 MLJ 247

Hon'ble Judges : Subba Rao, J

Bench : Single Bench

Advocate : Neti Subramaniam and J.V. Krishna Sarma, for the Appellant; V.V. Raghavan, for Govt. Pleader, for the Respondent

Judgement

Subba Rao, J.—This is an application under Article 226, Constitution of India for issuing a writ of certiorari to quash the order of the

Government of Madras dated 28-8-1951 in R. O. C. No. 65013-50 H. 4.

2. The petitioner was elected president of the Panchayat. Board, Bbogapuram, Pithapuram taluk in the year 1940. The Madras Village Panchayats

Act (Act 10 of 1950) came into force on 1-4-1951. After the Act came into force, on 31-7-1953, the Inspector of Local Boards issued a notice

to the petitioner to show cause why he should not be removed from his office. In that notice, four irregularities alleged to have been committed by

the petitioners were detailed:

1. The President failed to convene meetings of the Panchayat Board in May and November 1948, January, February, April, June, July, August

and November 1949 and in the months of June, July, August, October and November 1950.

2. When three members of the Panchayat Board ceased to be members for not

attending three consecutive meetings, he failed to report the same to the authorities concerned.

3. He was favouring Prathipadu hamlet of Bhogapuram in preference to Bhogapuram, as he was residing in that place.

4. He did not afford access to Harijan members to attend the meetings and that they were denied access to enter the Panchayat Board Office at the time of meetings.

3. The petitioner submitted explanation denying the allegations. The Inspector of Local Boards made an order dated 28-8-1951 removing the said

Bojja Venkataraju from the office of the President of the Bhogapuram Panchayat Board with effect from 4-9-1951. The petitioner filed an appeal

to the Government and the Government declined to interfere with the order of the Inspector of Local Boards. Mr. N. Subramaniam, the learned

counsel for the petitioner raised before me three points:

1. The Government and the Inspector of Local Boards were actuated by mala fides in removing him from the office.

2. That the petitioner's removal is contrary to the express provisions of Section 47 (1), Madras Village Panchayats Act of 1950 as all or most of the acts complained of were done long before that Act came into force.

3. Neither did the notice state that the irregularities alleged to have been committed by the petitioner were wilful nor was there a finding that the irregularities were wilful within the meaning of that section.

4. The question of mala fides was based upon the following allegations: In the village there were two groups of Congressmen, one the ministerial

group and the other anti ministerial group. The petitioner belonged to the anti-ministerial group. An attempt was therefore made through the

Secretary of the AH India Congress Committee to influence the Minister in charge to amalgamate Bhogapuram Panchayat with the neighbouring

Panchayat Board and when that attempt failed, to get the petitioner removed from the office. To substantiate this grave allegation, the learned

counsel for the petitioner stated that petitions were sent through the Secretary, All India Congress Committee, who forwarded the same with his

recommendation to the Minister-in-charge, and that the Minister in charge took personal interest in the file and expeditiously passed orders within a

month. A perusal of the records does not support the allegations made against the Government. The records submitted to the Court disclose that a

petition for amalgamation was sent through the Secretary, All India Congress Committee who forwarded it to the Minister in charge with a note

Please look, into the matter and do the needful.

But the same records disclose that notwithstanding the recommendation of the Secretary, the Government directed the Inspector of Local Boards

to make an enquiry and he reported that amalgamation was not in the interests of the Panchayat Boards. Accepting the recommendation, the

Government dropped the proposal. Far from showing that the Government was influenced by the recommendation of the Secretary, it shows that

notwithstanding the recommendations, they disposed of the matter on the merits in favour of the petitioner. Then it is said that the petition

mentioned in the affidavit was not the petition forwarded to the Minister prior to the dropping of the amalgamation proceedings, but a petition sent

subsequently. No doubt, an allegation to that effect was made in the affidavit and it was not "specifically denied in the counter, but the records

submitted to the Court do not show that any such petition was forwarded to the Government. If it was sent, just like the other petition, it would

have found a place in the records. I cannot therefore accept the allegation that some other petition was sent with the recommendations of the

Secretary of the All India Congress Committee to the Minister-in-charge. From the mere fact that the petitioner belonged to the opposite group

working against the official Congress, and from the other laudable circumstance that the Secretariat disposed of the matter expeditiously, I find it

impossible to hold that either the Government or the Inspector of Local Boards were influenced by the ministerial group or through some other

influential quarter. I hold on the record placed before me that the petitioner failed to substantiate the allegations made in the petition. I must once

again state what I have been stating in many similar other applications before me, that while it is necessary in the interests of our country that the

Government and their officials should act bona fide in discharge of their duties, it is equally important that members of the public should not make

grave and unfounded allegations against the Government unless they are in a position to substantiate the allegations made.

5. There is some force in the next argument advanced by the learned counsel for the petitioner. The learned counsel argued that the Inspector of

Local Boards acted illegally in removing the President u/s 47(1), Madras Village Panchayats Act, 1950 in respect of acts alleged to have been

committed by the petitioner prior to the date when the Madras Village Panchayats Act came into force. Section 47(1) reads:

The Inspector may, by notification and with effect from a date to be specified therein, ""remove any president or vice-president who, in his opinion,

wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, by-laws, regulations or lawful orders issued thereunder, or

abuses the powers vested in him.

This Act came into force on 1-4-1951. Prima facie, therefore, the omission or refusal to carry out, or disobedience to the provisions of the Act or

the rules framed thereunder must necessarily relate to the acts committed, or omissions made, after the Act came into force. But the learned

Government Pleader contended that by reason of the transitory provision, the Inspector of Local Boards has a power to take into consideration

acts done by the President at a time prior to the date when the Act came into force. He relied upon Section 131 in support of his contention.

Section 131 says:

With regard to the first reconstitution in accordance with the provisions of this Act of Panchayats in existence at the commencement thereof, and

otherwise in first giving effect to the said provisions, they shall be read subject to the rules in Sen. III.

Schedule III deals with transitional provisions. There is no rule in Schedule III enabling the Inspector of Local Boards to take into consideration the

acts done by the President in contravention of some provisions of a different Act. Rule 13 only saves any action taken by any authority before the

commencement of the Act unless that is inconsistent with that Act/ I, therefore, agree with and accept the contention of the learned counsel for the

petitioner that the Inspector of Local Boards cannot take into consideration acts done or omissions made by the petitioner in his capacity as a

President functioning under a different Act. Even so, the learned Government Pleader contended that the Acts taken into consideration by the

Inspector of Local Boards related only to a period after 1-4-1951. Even a perusal

of the counter-affidavit filed on behalf of the Government shows that all the acts were committed long prior to the Act came into force. The meetings alleged not to have been convened relate to the years 1948, 1949 and 1950. The three members were disqualified in the year 1944. The expenditure incurred by the petitioner in respect of the hamlet in which he was living related to a period ending with 3I-3~1951. The Harijans were prevented from attending the office long prior to the Act came into force.

The order passed upon the said facts is, in my view, contrary to the provisions of Section 47(1) of the Act. The Inspector of Local Boards therefore acted illegally in removing the President of the Panchayat Board u/s 47(1) of the Act. For the aforesaid reasons, I quash the orders of the Inspector of Local Boards and the Government of Madras. As regards costs, I do not think this is a fit case for awarding costs to the petitioner.

As I have already stated, he made grave allegations against the Government and failed to establish the same. Further, the point now raised has not been specifically stated in the affidavit filed in support of the petition. For the aforesaid reasons, I direct the parties to bear their own costs.