
(2008) 09 AP CK 0111

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 18470 and 18565 of 2008

Borlakunta Kamala and Others

APPELLANT

Vs

Revenue Divisional Officer and Others

RESPONDENT

Date of Decision : 02-09-2008

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1994 — Section 245
Andhra Pradesh Panchayat Raj Rules — Rule 2

Citation : (2008) 6 ALD 402

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P. Govind Reddy, in WP No. 18470 of 2008 and Kasa Jaganmohan Reddy, in WP No. 18565 of 2008, for the Appellant; Government Pleader, for Panchayat Raj and Rural Development, in WP Nos. 18470 and 18565 of 2008, Government Pleader, for Home, in WP No. 18470 of 2008, Government Pleader, in WP No. 18565 of 2008, K. Venu Madhav, in WP No. 18470 of 2008 and G. Elisha, in WP No. 18565 of 2008, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioners in W.P. No. 18470 of 2008 are the Members and the petitioner in WP No. 18565 of 2008 is the President of the Mandal Parishad, Dharmapuri Mandal, Karimnagar District. These two writ petitions are filed, challenging the notice, dated 20.8.2008, issued by the Revenue Divisional Officer, Jagtial, in Form-V, proposing to convene a meeting on 5.9.2008, to take up the motion of no confidence against the President.

2. The elections to the Mandal Parishad were held in the year 2006. Out of 21 members of the Parishad, 10 were elected from the Indian National Congress and 10 from the Telugu Desam Party. One independent was elected and the President was elected from the Indian National Congress with the support of the independent. After expiry of two years, 14 Members of the Mandal Parishad have submitted requisitions in Form-II, prescribed under the Rules made in G.O. Ms. No. 200, dated 28.4.1998, with a request to convene a meeting, to take up the

motion of no confidence, a draft of which was enclosed. The petitioners state that Form-II was not handed over by the requisitionists to the Revenue Divisional Officer, as required under Rule 2 of the Rules. It is also pleaded that as many as 6 Members have been kidnapped and on the basis of the complaints submitted by their respective spouses, cases were registered by the Police. Certain other grounds are also urged.

3. Heard Sri P. Govinda Reddy, learned Counsel for the petitioners in WP No. 18470 of 2008, Sri K. Jaganmohan Reddy, learned Counsel for the petitioner in WP No. 18576 of 2008, learned Government Pleader for Panchayat Raj and Sri K. Venu Madhav, learned Counsel for the Members, by whom no confidence motion was mooted.

4. Section 245 of the A.P. Panchayat Raj Act and the Rules mentioned above prescribe the procedure to be followed in the matter of moving the motion of no confidence against Upa-Sarpanch of Gram Panchayat, or President or Vice-President of Mandal Parishad, or Chairperson or Vice-Chairperson of Zilla Parishad. The Section prescribes the broad guidelines and the rest of the details are provided for under the Rules. The method, in which the notice of intention to move a motion of no confidence, is to be issued, is provided for under Rule 2, which reads as under:

A notice of the intention to make the motion shall be made in Form-I, in Form-II and in Form-III annexed to these rules either in English or in Telugu or in Urdu language, signed by not less than one-half of the total number of members of the Gram Panchayat, Mandal Parishad, or Zilla Parishad as the case may be, together with a copy of the proposed motion, and shall be delivered in person by any two of the members who signed such notice, to the Revenue Divisional Officer, Sub-Collector or Assistant Collector, as the case may be, having jurisdiction in the case of Upa-Sarpanch of a Gram Panchayat, or President and Vice-President of a Mandal Parishad or to the District Collector in the case of Chairperson and Vice-Chairperson of Zilla Parishad, as the case may be.

5. The grievance of the petitioners is that the notice in Form-II was not received by the Revenue Divisional Officer in person and the endorsement discloses that it was delivered in his office. On that basis, they contend that there was noncompliance with the Rule.

6. A close look at the Rule reveals that the requirement to act in person is insisted vis-a-vis two of the members, who intend to present the notice. The Rule does not insist that the receipt of the notice must be in person by the Revenue Divisional Officer or the District Collector, as the case may be. That apart, it is for the concerned authority to satisfy himself about the method of receipt of the notice. In the instant case, the Revenue Divisional Officer categorically stated that he has received the notice in Form-II in person. The alleged discrepancy in the initial put up on the notice in Form-II vis-a-vis the signature on Form-V cannot by itself invalidate the proceedings initiated for convening the meeting to

take up no confidence motion. Further, the learned Counsel for the contesting respondents has filed the photographs, depicting that the Revenue Divisional Officer himself has received the notice in Form-II, and submits that the event was also video-graphed.

7. The other allegation of the petitioners is that the some of the members were kidnapped. That cannot constitute the subject-matter of these writ petitions. This much, however, can be said that on the date of convening the meeting, the Revenue Divisional Officer shall ensure that the members participate in the meeting voluntarily and not under any threat or coercion.

8. The writ petitions are accordingly dismissed, with the above observation.

9. There shall be no order as to costs.