
(1996) 10 AHC CK 0043

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 32238 of 1996

Daya Shankar, Gram Pradhan

APPELLANT

Vs

Distt. Panchayat Raj Adhikari, Gorakhpur & Anr.

RESPONDENT

Date of Decision : 15-10-1996

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 113(2), 14
Uttar Pradesh Panchayat Raj Rules, 1947 — Rule 33B(3)

Citation : (1996) 10 AHC CK 0043

Hon'ble Judges : M. Katju, J

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned notice dated 21996 for calling a meeting of no confidence.

2. I have heard learned counsel for the petitioner and have perused the impugned notice. The petitioner was elected as Pradhan of Gram Panchayat Sairon. Under Rule 33B of the U.P. Panchayat Raj Rules read with Section 113(2) of the Act as amended in 1994 the notice for calling a meeting of no confidence must be signed by at least fifty per cent of the members of the Gram Panchayat. In the Gram Panchayat Sairon there are eleven members and it appears from annexure1 to the petitioner that all the eleven members of the Gram Panchayat signed the notice.

3. Learned counsel for the petitioner submitted that a perusal of the impugned notice shows that in fact these eleven members had already made up their minds and hence there could be no real discussion as is provided under Rule 33B(3) of the U.P. Panchayat Raj Rules as amended in 1996. In my opinion, there is no force in this contention because the impugned notice is only to call a meeting of no confidence and any view expressed therein is only tentative. It is only at the meeting that there can be a discussion and that stage has not yet arrived. In my opinion, it will be open to the petitioner to have the matter discussed in the meeting as provided in Rule 33B(3).

4. Learned counsel for the petitioner then challenged the constitutional validity of Section 14 of the U.P. Panchayat Raj Act as amended in 1994. His submission was that while the petitioner was elected by the entire Gram Sabha, under the amended Section 14 he can be removed by twothird majority of the Gram Panchayat members and hence the provision is wholly arbitrary as a person elected by the entire Gram Sabha can be removed by a much smaller body and this is undemocratic. I am not agreeable to this contention. In my opinion the 1994 amendment to the Act is not arbitrary. In fact the position before this amendment was that half of the members of the Gram Sabha and to sign the notice for calling a meeting of no confidence and two thirds of the members of the Gram Sabha had to pass the resolution. Thus, for example, if there were one thousand members of the Gram Sabha then atleast five hundred had to sign the notice and 667 members had to pass the resolution and this resulted in a lot of confusion and litigation and a lot of petitioners were filed in this Court alleging that many of the signatures on the notice were fictitious or two thirds of the members had not passed the resolution, etc. To eliminate these controversies the procedure has been simplified and it has been provided that the members of the Gram Panchayat alone may call a meeting and decide upon the no confidence motion. In my opinion, there is nothing arbitrary about this procedure, as it will eliminate the possibilities of various controversies which were hitherto taking place. The members of the Gram Panchayat are themselves elected representatives of the Gram Sabha and hence indirectly it is the Gram Sabha which will be passing the no confidence motion. Thus, I uphold the validity of the U.P. Amendment Act. No. 9 of 1994. The writ petition is dismissed. Petition dismissed.