
(1967) 08 AHC CK 0029
In the Allahabad High Court
Case No : Special Appeal No. 383 of 1967

Ganga Ram

APPELLANT

Vs

A.S.D.O., Etamadpur, Firozabad, Agra and Another

RESPONDENT

Date of Decision : 17-08-1967

Acts Referred:

Uttar Pradesh Panchayat Raj (Amendment) Act, 1957 — Section 2
Uttar Pradesh Panchayat Raj Act, 1947 — Section 95(1), 96A

Citation : AIR 1968 All 353

Hon'ble Judges : V.G. Oak, C.J.; Bishambhar Dayal, J

Bench : Division Bench

Advocate : K.C. Saxena and R.B. Pandey, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Oak, C.J.—This Special Appeal arises out of proceedings under the U.P. Panchayat Raj Act. Ganga Ram was the Pradhan of Gaon Sabha or Dharera in tahsil Etmadpur, district Agra. Shri Verma was the Additional Sub-Divisional Officer. Etmadpur. He passed an order suspending Ganga Ram from the office of Praddhan of the Gaon Sabha. Ganga Ram filed a writ petition challenging the order of suspension. The writ petition has been dismissed by a learned single Judge of this Court. Ganga Ram has, therefore, filed the present special appeal.

2. The sole point urged before us by Mr. K. C. Saxena appearing for the appellant is that Shri Verma had no power to pass any such order suspending a Pradhan of a Gaon Sabha. Chap. VII of the Panchayat Raj Act deals with external control. According to Clause (g) of Sub-section (1) of Section 95 of the Act, the State Government may suspend or remove a member of a Gaon Panchayat or an office bearer of a Gaon Sabha. Section 96-A of the Act empowers the State Government to delegate its powers under the Act to any officer subordinate to it. The question for consideration is whether such power has been validly delegated to Shri Verma.

3. Mr. K. C. Saxena relied upon a number of decisions of this Court in support of his contention that it is impossible for an Additional Sub-Divisional Officer to exercise the powers of the State Government u/s 95 (1) (g), Panchayat Raj Act. In *Govind Prasad v. Sheo Kumar* 1958 All LJ 655, it was held by a Division Bench of this Court that the amendment of the U.P. Panchayat Raj Act made by Act No. 19 of 1957 is practically in-fructuous and does not validate the appointment of any person as Additional Sub-Divisional Officer as no authority has been prescribed for such appointment and designation.

4. The term "Sub-Divisional Officer" has been defined in Clause (ss) of Section 2, U.P. Panchayat Raj Act. According to that definition, Sub-Divisional Officer includes Additional Sub-Divisional Officer designated or appointed as such by the appropriate authority. The basis of the decision of this Court in *Govind Prasad's* case 1958 All LJ 655, was that there was no prescribed authority for such appointment. *Govind Prasad's* case 1958 All LJ 655, was decided on 6-5-1958. The difficulty pointed out in that case has been solved by U. P. Act No. 10 of 1961. U. P. Act No. 10 of 1961 provides for appointment of Additional Sub-Divisional Officers. Sub-section (3) of Section 18, U. P. Land Revenue Act, as amended by U. P. Act No. 10 of 1961, states: "The State Government may designate any Assistant Collector of the First Class appointed to a district to be Additional Sub-Divisional Officer in one or more sub-divisions of the district." After the amendment of the Land Revenue Act by U. P. Act No. 10 of 1961 there is no difficulty in the appointment of an Assistant Collector by the State Government as an Additional Sub-Divisional Officer.

5. Ground No. 1 in the writ petition was that an Additional Sub-Divisional Officer has no jurisdiction to pass an order of suspension, because S.D.O. alone can pass such an order. The petitioner did not raise any ground in the writ petition as regards the validity of the appointment of Shri Verma as Additional Sub-Divisional Officer, Etmadpur. We may, therefore, assume for the purposes of the present case that Shri Verma was appointed as an Additional Sub-Divisional Officer, Etmadpur, by the competent authority.

6. In *Gayadatt v. S.D.O., Maharajganj* 1964 All LJ 145, it was held by another Division Bench of this Court that an Additional Sub-Divisional Officer had no jurisdiction to dispose of an election petition. The learned Judges gave two reasons in support of that conclusion: Firstly, it was found that the State Government had not delegated its power to Collectors to designate certain Assistant Collectors as Additional Sub-Divisional Officers. In the present case we have assumed that Shri Verma was appointed as Additional Sub-Divisional Officer by the competent authority. So, the question whether the Collector of Agra could pass any such order does not arise. The second reason given by the Bench in *Gayadatt's* case, 1964 All LJ 145, turned on the language of Rule 24 of the U. P. Panchayat Raj Rules. According to Rule 24, an election petition has to be presented before the Sub-Divisional Officer within whose jurisdiction the Sabha concerned lies. Relying on the definite article "the" used in Rule 24, the learned

Judges concluded that only one officer described as Sub-Divisional Officer was competent to entertain an election petition. In the present case we are not concerned with the trial of any election petition. We need not, therefore express any opinion as regards the true scope of Rule 24 of U. P. Panchayat Raj Rules.

7. The State Government has delegated its power u/s 95 (1) (g), U. P. Panchayat Raj Act, to Sub-Divisional Officers. It appears that the necessary authority was conferred by a series of Government notifications issued in the year 1958. The notifications were not placed before us. But we have been referred to Schedule 3 of U. P. Panchayat Raj Rules. It is mentioned in Schedule 3, U. P. Panchayat Raj Rules, that the power of the State Govt. u/s 95 (1) (g) has been delegated to S.D.O. concerned. The question is whether the expression "S.D.O. concerned" includes an Additional Sub-Divisional Officer.

8. We must bear in mind that the notifications issued by the State Government in the year 1958 were u/s 96-A, U. P. Panchayat Raj Act. Clause (ss) of Section 2 is a part of the Act. So, the relevant notifications must take colour from this definition contained in the Act. The definition of "Sub-Divisional Officer" contained in Clause (ss) of Section 2 of the Act has to be read in the relevant Government notifications issued in the year 1958. Clause (ss) was introduced in Section 2 of the Act by U. P. (Amendment) Act No. 19 of 1957. The amendment was in force when the notifications were issued by the State Government in the year 1968. There is, therefore, no difficulty in reading that definition of "Sub-Divisional Officer" in the relevant notifications. For purposes of the notifications, the term "Sub-Divisional Officer" will include an Additional Sub-Divisional Officer.

9. Mr. K. C. Saxena who relied upon a decision by B. N. Nigam, J., in *Jai Raj Singh v. State of Uttar Pradesh*, Writ Petn. No. 266 of 1964, D/-31-3-1966 (All.). It was held in that case that the Additional Sub-Divisional Officer, Kaisarganj, district Bahraich, was not competent to exercise any power u/s 95 (1) (g), U. P. Panchayat Raj Act. The learned judge gave two reasons to support of his decision. First, he pointed out that he was bound by the decision of the Division Bench in *Gayadatt's case* 1964 All LJ 145. Secondly, the Junior Standing Counsel was not able to satisfy the Court that the State Government had delegated to the Collectors the power to appoint Additional Sub-Divisional Officers. In the present case we have assumed that Shri Verma was appointed Additional Sub-Divisional Officer by the competent authority. The question whether the Collector of Agra could exercise such power of appointment does not, therefore, arise.

10. In the present case we have no reason to doubt the validity of the appointment of Shri Verma as Additional Sub-Divisional Officer, Etmadpur, district Agra. The power of the State Government u/s 95 (1) (g) has been delegated to Sub-Divisional Officers. As explained above, the expression "Sub-Divisional Officer" includes an Additional Sub-Divisional Officer. The learned single Judge was, therefore, right in holding that Opposite Party No. 1 was competent to pass the impugned order. The writ petition was rightly dismissed.

11. The appeal is dismissed with costs.