

(2014) 09 KAR CK 0249
In the Karnataka High Court
Case No : W.P. Nos. 36285-36287/2014 (LB-ELE)

H. Murthy

APPELLANT

Vs

The Deputy Commissioner

RESPONDENT

Date of Decision : 05-09-2014

Acts Referred:

Citation : (2014) 09 KAR CK 0249

Hon'ble Judges : Dilip B. Bhosale, J

Bench : Single Bench

Advocate : Kashinath J.D., Advocate for the Appellant; Niloufer Akbar, AGA, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Dilip B. Bhosale, J.—Heard learned counsel for the petitioners and learned AGA for respondents-1 and 2. None appears for respondents-3 and 4, though served.

2. These petitions impugn the notification dated 5.7.2014 issued by the 1st respondent u/s 8 of the Karnataka Grama Panchayat Raj Act 1993 (for short the "Act") whereby, respondent No. 4 has been appointed as Administrator in view of the fact that number of elected members of Grama Panchayat was reduced to less than 2/3 of the total number of members. Kunjooru village Panchayat had 17 elected members at the relevant time, out of which nine members resigned on 20th June 2014. Out of the nine, resignations of two members were rejected. In other words, resignations tendered by 7 members were accepted by the President. Thus, the number of members of the Grama Panchayat reduced to 10 i.e., less than two third of the total of 17. Since the number of members of the Grama Panchayat reduced to less than 2/3 the impugned notification has been issued.

3. Learned counsel for the petitioners raised three grounds of challenge to the appointment of administrator. Firstly, he submitted that the period of 15 days as contemplated u/s 43 of the Act had not expired before issuance of the impugned

notification. Secondly, he submitted that on 5th July 2014, PDO forwarded report/intimation regarding acceptance of resignation in the meeting held on that day and the impugned notification also came to be issued on the very same day, which, according to the petition, shows that the order appointing administrator, was already kept ready. Lastly he submitted that the order does not specify the period, for which, the administrator was appointed and on this ground also, the notification vitiates. In my opinion all the three grounds/contentions urged by learned counsel for the petitioner, deserve to be rejected outright.

4. Section 43 provides that a member of a Grama Panchayat may resign his membership in writing under his hand addressed to the Adyaksha and his seat shall become vacant on the expiry of 15 days from the date of receipt of such resignation. Resignations, in the instant petition, were tendered by all 7 members on 20th June 2014 and the resignations were accepted in the meeting held on 5-7-2014. These two dates clearly show that the resignations were accepted on expiry of 15 days. Thus, the first ground of challenge must be rejected. Order accordingly.

5. Insofar as the second ground of challenge is concerned, merely because, the report/intimation was sent on 5.7.2014 and the notification was also issued on the very same day, cannot be a ground for setting aside the notification. The fact remains that 7 members resigned and none of them is coming forward to challenge acceptance of their resignation. After accepting the resignation of 7 members, only 10 members of the Grama Panchayat remained and since the total number of members of the Grama Panchayat reduced to less than 2/3, the Administrator came to be appointed as contemplated u/s 8(1)(b) of the Act. Thus, second ground is also deserves to be rejected.

6. Insofar as the third ground of challenge is concerned, though the notification does not specify the period for which the Administrator was appointed, sub-section (2) of Section 8 of the Act clearly provides that Administrator shall hold office for the period not exceeding six months. In other words, it is mandatory for administrator to conduct election of the Grama Panchayat within the period of six months. Thus, I find no merit in the writ petition. Petition is dismissed.