

(1982) 05 KAPT CK 0005
In the Karnataka Appellate Tribunal
Case No : Rev. Petn. 23/82 (Rev. 3)

Hadavanahally Group Panchayat

APPELLANT

Vs

Divisional Commissioner, Bangalore

RESPONDENT

Date of Decision : 18-05-1982

Acts Referred:

Karnataka Village Panchayat and Local Boards Act, 1959 — Section 203

Citation : (1982) 1 KarLJ 74

Hon'ble Judges : K. V. Narayana Raju, Member; R. Shankarappa, J

Judgement

Per K.V. Narayana Raju, M.-This revision petition under S. 207 of the Karnataka Village Panchayats and Local Boards Act is directed against the order dated 31-12-1981 passed by the learned Divisional Commissioner, Bangalore in VPC. CR. 224/81-82 under S. 203(3) of the said Act superseding Hadavanahalli Panchayat, Turuvekere Taluk.

2. The Village Panchayat consisted of 13 members and possibly on account of differences between the Chairman and certain members, 7 out of them tendered resignations in January and March, and the petitioner-Chairman accepted those resignations on 20-3-1981 and 28-4-1981. The Assistant Commissioner, Tiptur Sub-Division in his letter dated 30-9-1981 addressed the Deputy Commissioner stated that consequent upon the acceptance of resignations of 7 members, it was necessary to supersede the Panchayat and appoint an Administrator. Earlier the same Assistant Commissioner had stated in his letter dated 30-6-81 that the Village Panchayat was not in a position to function effectively since there could not be a quorum for taking decisions and Panchayat was incompetent to perform the duties of the Panchayat.

3. The learned Divisional Commissioner issued show cause notice dated 17-11-1981 that the Panchayat had failed to perform its duties satisfactorily as required by the Karnataka Village Panchayats and Local Boards Act, and listed the following grounds for supersession:

1. Out of 13 V.P. members of Hadavanahalli V.P., 7 members have tendered their

resignation of their Membership and their resignations have been accepted by the V.P. Chairman on 20-3-81 and 28-4-1981 respectively. Now there are only six sitting members.

2. Since remaining six members of the V.P. cannot form a quorum as required under S. 37 of the Karnataka VPs. and LBds. Act, 1959, the village panchayat cannot transact any official business.

3. There is friction among the Panchayat Members.

4. The petitioner-Chairman gave his reply dated 11-12-1981 stating inter alia that the 7 members of the Panchayat tendered resignation with an ulterior motive of dislodging him (Chairman) who belonged to Backward Tribe; that there is no complaint or question of inefficiency or non-performance of the day-to-day affairs of the Panchayat, that he was carrying on the affairs of the Panchayat; and that, therefore, the vacant posts in the Panchayat may be filled up by election.

5. The learned Divisional Commissioner proceeded to pass the order dated 31-12-1981 now impugned by a one sentence reasoning that the replies furnished by the Chairman were not convincing.

6. The petitioner has contended that notice of show cause was not served on all the existing members; that S. 203 of the Village Panchayats and local Boards Act had no application to the facts obtaining in the case; that the order passed does not refer to the failure of the Panchayat to perform any of the functions under the Act; that the fact that there are only 6 members out of 13, was not a ground for holding that the Village Panchayat was incompetent to perform the duties, etc.

7. The advocate for the petitioner and the learned State Representative were heard. We are of the opinion that conditions required by S. 203 of the Village Panchayats and Local Boards Act are not fulfilled for supersession of the Panchayat. S. 203(1) reads:

203. Dissolution or supersession of Panchayat or Taluk Board.-(1) If, in the opinion of the Commissioner, a Panchayat exceeds or abuses its powers or is incompetent to perform or makes persistent default in the performance of the duties imposed on it under S. 42, or 43 or 45, or any other law for the time being in force, or fails to levy a tax under S. 73 or persistently disobeys any of the orders of the Deputy Commissioner or Commissioner under this Act, the Commissioner may by an order published in the official gazette- (i) dissolve such Panchayat, or (ii) supersede such Panchayat for the period specified in the order.

Such period may be longer than the term for which the members of the Panchayat would have held office under S. 24, if the Panchayat had not been superseded under this section:

Provided that the Commissioner may from time to time extend or curtail the period of supersession by an order published in the official gazette:

Provided further that no such period shall extend beyond one year, unless the previous sanction of the Government has been obtained.

8. There can be no doubt that dissolution or supersession of a Panchayat can arise only where the Panchayat exceeds or abuses its power or makes persistent default in the performance of the duties imposed on it under Ss. 42, 43 or 45. The words "or is incompetent to perform" are between the other words describing the objectionable conduct of the Panchayat. We find it difficult to understand the expression "incompetent to perform" as envisaging a situation where the number of members of the Panchayat for whatever reason falls below the minimum required to complete the quorum. Want of quorum may not be the result of the inability or the objectionable conduct of the Panchayat or the members constituting it. It may be due to death, resignation or absence of the members constituting the Panchayat.

9. Having regard to the context in which the expression "is incompetent to perform" occurs, we are of the opinion that the meaning to be assigned to that expression is of the same nature or character as the other expressions "Panchayat exceeds or abuses its powers" or "makes persistent default in the performance of the duties". Those expressions necessarily involve an element of default or inefficiency on the part of the Panchayat or the members. Therefore, we think that the "incompetency" contemplated by S. 203 is an inability flowing from negligence or inefficiency of the Panchayat or its members.

10. In this connection we may refer to the well known Rule of interpretation which lays stress on the context, i.e. the principle of *noscitur a sociis*. It is said where two or more words susceptible of analogous meanings are coupled together, *noscitur a sociis* they are understood to be used in their cognate sense. They take as it were, their colour from each other, i.e. the more general is restricted to a sense analogous to the less general (Maxwell), It is also said that the maxim *noscitur a sociis*, that a word is known by the company it keeps, while not an inescapable rule, is often wisely applied where a word is capable of many meanings or to avoid the giving of unintended breadth to the statute.

11. We are applying the said principle of *noscitur a sociis* because we understand that dissolution or supersession of a local authority casts a stigma of inefficiency or misconduct on the members, and that a case of the strength of the Panchayat falling below the minimum required to complete quorum, cannot always be the result of either inefficiency or misconduct on the part of the Members. In the present case a decision on the part of certain Members to resign cannot be treated as a case of inefficiency or incompetency of the Panchayat justifying action under S. 203.

12. What is more, there are certain other provisions in the Village Panchayats and Local Boards Act which would suggest that the remedy for a situation such as the one obtaining in the case is not supersession but something else. Sub-section (5) of S. 5 dealing with "Constitution of Panchayats" states that if for any

reason the election results in the return of less than the required number of members, then the Deputy Commissioner shall appoint such number of persons as will make up the required number being persons who would have been qualified to be elected. S. 35 of the Village Panchayat and Local Boards Act provides that any vacancy of which notice shall have been given to the Deputy Commissioner in the prescribed manner due to the disablement, death, resignation, disqualification.....shall be filled by the election of a member who shall hold office so long only as the member in whose place he has been elected would have held office if the vacancy had not occurred. It also provides that if no member is elected within four weeks from the date on which notice of the vacancy is given to the Deputy Commissioner, the Deputy Commissioner shall appoint a person who would have been qualified to be elected and the person so appointed shall be deemed to have been duly elected under this section. There is a further proviso which states that if the vacancy of a member occurs within four months preceding the date on which the term of office of the Members of the Panchayat expires under S. 24, the vacancy shall not be filled.

13. Those provisions amply make out that the Deputy Commissioner should proceed to fill up the vacancies arising from resignations and not proceed to dissolve or supersede the Panchayat even if the number of members present falls short of the quorum required. It is rather unfortunate that in the present case though the vacancies were reported as early as 28-4-1981, no action was taken to fill up the vacancies till November 1981 when only a show cause notice was issued. It may be seen that the Panchayat did function without requisite number to form quorum, and it is nobody's case on account of absence of 7 out of 13 members, the Panchayat was unable to perform the duties imposed on it. If the Panchayat could function for 8 months with only 6 out of 13 members we fail to understand how the Panchayat can be said to be incompetent to perform the duties imposed on it.

14. For the foregoing reasons we hold that the learned Divisional Commissioner could not have concluded that the Panchayat was incompetent to perform the duties merely because the number of members left was not sufficient to complete the quorum. The learned Divisional Commissioner ought to have seen that the proper course was to fill up the vacancies by election or appointment as mentioned in S. 35. Ignoring the default on the part of the Deputy Commissioner or the Assistant Commissioner, the Divisional Commissioner could not have found fault with the Panchayat itself or the Chairman thereof.

15. For the foregoing reasons we set aside the order passed by the Divisional Commissioner. Revision allowed.