
(2010) 12 P&H CK 0399

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 19190 of 2010 (O and M)

Hans Raj and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 21-12-2010

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 19

Citation : (2011) 2 RCR(Civil) 792 : (2010) 3 SLR 551

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Alok Singh, J.

C.M. No. 18065 of 2010

1. For the reasons shown in the application. Civil Misc. application is allowed.

C.W.P. No. 19190 of 2010

2. The only short question involved in the present case as to whether three members out of five would amount to 2/3rd majority competent to pass 'No Confidence Motion' u/s 19 of the Punjab Panchayati Raj Act, 1994.

3. Undisputedly, on 13.10.2010, a meeting was convened to discuss and to take decision on the 'No Confidence Motion' in which out of total five Panches, three had participated in favour of 'No Confidence Motion'. By the impugned order, the Block Development and Panchayat Officer, rejected the resolution saying that three panches out of five do not constitute 2/3rd majority. Government instructions dated 14.10.2010 which is filed as Annexure P/5 with C.M. No. 18065 of 2010 reveals that Government has taken a decision that three Panches out of five total Panches will amount to 2/3rd majority. Since, Government instructions are clear and not ambiguous, hence, Block Development and Panchayat Officer was not competent to pass the impugned order in violation of

the Government Instructions (Annexure P/5).

4. Learned Additional Advocate General, Punjab, argued that by Punjab Ordinance No. 9 of 2010 dated 14.12.2010, Section 19 of the Punjab Panchayati Raj Act has been omitted. Hence, there is no question of accepting the "No Confidence Motion" passed u/s 19 of the Act.

5. Photostat copy of the Notification dated 14.12.2010 containing Punjab Ordinance No. 9 of 2010 is handed over in the Court which is taken on record. Perusal of the Government Ordinance reveals that no provision is made in the Ordinance that Section 19 shall be deemed having been omitted with retrospective effect. Since, the alleged resolution was passed on 13.10.2010 much much prior to the Ordinance No. 9 of 2010, hence, Block Development and Panchayat Officer was bound to take decision thereon in accordance with the Government instructions (Annexure P/5).

6. Present petition is allowed. Impugned order passed by Block Development and Panchayat Officer is quashed. The Block Development and Panchayat Officer - Respondent No. 3 is directed to take decision thereon in accordance with law within 30 days from today.