
(2003) 12 AP CK 0054
In the Andhra Pradesh High Court
Case No : Writ Petition No. 26355 of 2003

K. Agi Reddy

APPELLANT

Vs

Uppal Kalan Municipal Council and Another

RESPONDENT

Date of Decision : 26-12-2003

Acts Referred:

Andhra Pradesh Municipalities Act, 1965 — Section 51(5)

Citation : (2004) 1 ALD 517 : (2004) 2 ALT 279 : (2004) 1 APLJ 399

Hon'ble Judges : A. Gopal Reddy, J

Bench : Single Bench

Advocate : N. Sreedhar Reddy, for the Appellant; R. Thimma Reddy, for the Respondent

Final Decision : Allowed

Judgement

A. Gopal Reddy, J.—Petitioner who was elected as Councillor for Uppal Kalan Municipality from Ward No. 21 in the elections held during the month of March, 2000 was suspended by the impugned proceedings dated 29-11-2003 for a period of two months under Sub-section (5) of Section 51 of the A.P. Municipalities Act, 1965 (for short "the Act"). Questioning the same the present writ petition is filed contending that the said order passed by the Chairman of the Municipality is contrary to the provisions of Section 51 of the Act, and without passing any order under Sub-section (3) of Section 51 and without there being any resolution by the Council the petitioner was placed under suspension, which is arbitrary and illegal.

2. Learned Standing Counsel for the respondent-Municipality made available the records pertaining to Council Resolution Register, Volume-6 from June, 2003 to November, 2003. In the said register the impugned order passed by the Council is at page No. 291. It is recorded that the petitioner was suspended as per Sub-section (5) (a) and (b) of Section 51 of the Act.

3. Sub-section (5) of Section 51 reads as under:

"57. Presidency of Council and Chairperson:

(5) (a) The Chairperson may, if he deems it necessary, name a member who disregards the authority of the Chair or abuses the rules, bye-laws or regulations of the Council by persistently and wilfully obstructing the business thereof.

(b) If a member is so named by the Chairperson, the Chairperson shall at meeting of the Council forthwith put the question that the member or (naming him) be suspended from functioning in the Council as such for a period not exceeding three consecutive months reckoned from the date of that meeting.

4. Learned Counsel for the petitioner contends that unless the petitioner was called upon to withdraw from the meeting for indecent behaviour as contemplated under Sub-section (3) (a) of Section 51 of the Act, no steps could be taken for his suspension.

5. While interpreting Sub-section (5) of Section 51 this Court in *R. Ramachandra Rao v. The Amalapuram Municipality* 1982 ALT 100, categorically held that in cases a Councillor disregards the authority of the Chair, or abuses the rules or otherwise persistently or wilfully obstructs the business thereof, the Chairman has to name him and then immediately put the question to the Council that the Councillor named by him should be suspended from functioning in the Council for a period not exceeding three consecutive months. Once the question is put to the Council, it is for the Council to decide either to approve the question or the suggestion as it may be called, put by the Chairman or to disapprove it. The proviso which empowers the Council to resolve to terminate the suspension at any time, also throws light upon the meaning and intent behind Clause (b). It is for the Council to resolve or to decide whether to suspend such member, or not, and if so, for what period.

6. Similarly, this Court in *N. Hanumantha Rao v. Government of A.P.* 1984 (1) ALT 71, held that action u/s 51(5) would arise only when the erring Councillors who were very much present at the meeting are found to be persistently and wilfully obstructing the business of the Council. Erring member is prerequisite u/s 51(5) (a) of the Act. The Chairman, then put the question of suspension to the vote of the Council and the Council by a majority resolved to suspend the petitioners for consecutive months reckoned from the date of the meeting and then only the requirements of Section 51(5)(b) will be satisfied.

7. Admittedly, in the present case the resolution does not indicate about naming the petitioner and immediately put the question to the Council stating that the Councillor named by him should be suspended from the Council. In the absence of the same, impugned order passed by the Commissioner cannot be sustainable and the same is accordingly set aside.

8. The writ petition is accordingly allowed.