
(1995) 11 MP CK 0023

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1623 of 1995

Karan Sinh Bhadauriya

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 17-11-1995

Acts Referred:

Citation : AIR 1996 MP 175

Hon'ble Judges : T.S. Doabia, J

Bench : Single Bench

Advocate : T.C. Shinghal, for the Appellant; R.A. Roman, for the Respondent

Final Decision : Allowed

Judgement

T.S. Doabia, J.—The petitioner is President of Bhind Co-operative Marketing Society. He presided over a meeting held on 5-11-1995. The agenda for this meeting was circulated. This agenda was so circulated on 30-9-1995. There is no dispute with circulation of the agenda and also with regard to holding of the meeting. What has happened is that after passing three resolutions, the petitioner chose to adjourn the meeting. The language used is that for unavoidable reasons, the meeting is adjourned. After making of the above note, the petitioner appears to have left the meeting. However, the remaining members chose to continue with the meeting and passed several resolutions. One of those resolutions is at S. No. 13. By this resolution, it was resolved that all housing societies would cease to be members of respondent No. 2 Society, as a consequence of which the housing societies were to be removed from the membership of respondent No. 2. It is this part of the resolution which is being challenged under Article 226 of the Constitution of India. The argument advanced is that after the Chairman of the meeting had adjourned the meeting, the remaining members could not transact any other business. The other argument is that even if they could transact the business, only that agenda that was circulated could be considered and the consideration of such items which were not parts of the agenda was not appropriate. The relevant section which

deals with the holding of the meeting is Section 49. The Committee has further framed bye-laws. Under bye-law 27, the meeting is to be presided over by the President of the Society. As to what are the rights of a person who is Chairman of the meeting or is presiding in a meeting was subject-matter of consideration before the Division Bench of Rajasthan High Court in the case of Deodutt Sharma Vs. Zahoor Ahmed Zaid and Others, . It was held that the Chairman cannot act arbitrarily and he cannot adjourn the meeting without any rhyme or reason. If he does so, then the remaining members can continue the business and they can pass resolutions with regard to all those matters which are there, on the agenda. The relevant conclusions have been summarised in para 51 of the Report. These are as under:

"51. From the aforesaid view of cases, the following principles clearly emerge:

1. That once a meeting had been properly called and it meets the Chairman of the meeting can only adjourn it with the consent of the majority of the members subject to course to the rules and regulations of the particular body in relation to which such a question might arise. Thus where a meeting, according to a statute or the rules under which it has been called must have a certain quorum, and such quorum is not present, the Chairman will have the authority to adjourn the meeting because in its absence no lawful meeting can be held.
2. In the absence of any rule to the contrary, the common law doctrine should be held to prevail that the adjournment of the meeting rests with the majority of the members present and is not a matter merely of the pleasure of the Chairman.
3. An exception to the aforesaid rule which has been almost universally accepted is that where disorder breaks out at a meeting, the Chairman has an inherent right, even if it has not been granted by statute or the rules, to adjourn the meeting, without consulting the majority.
4. These exceptions apart, if the Chairman adjourns a meeting contrary to the wishes of the members present and thereby interrupts or leaves unfinished the business for which the meeting was summoned, the remaining members can lawfully continue the business; and in the absence of their proper Chairman, it is open to them to elect another Chairman to act as his substitute and continue the business, and any business which was duly notified in the notice for the meeting could be transacted to completion, and if it is so transacted it would be valid.
5. Where, however, the adjournment has been properly ordered by the Chairman, or it having been ordered the members have acquiesced in it, and thereafter it dawns on or strikes some of them to continue the business of the meeting, then such continuance should be held to be invalid as being a surprise or a fraud on the members who may have already left the meeting."

Similar view can be spelled from Sewa Sahakari Sanstha Mahagarh and Others Vs. Ramchandra Narayan Kokil and Others, . Observations made in para 7 are relevant and be noticed:

"This being so, the Returning Officer, even assuming that he was duly appointed had clearly no power to adjourn the meeting or to stay the elections. For this reason, the Returning Officer having also decided to leave the meeting even though the same was continued, his absence has not been shown to vitiate the elections for contravention of any provision of law."

Accordingly, it is held that the act of the Chairman in adjourning the meeting cannot be said to be proper. He had no jurisdiction or power to adjourn the meeting and, therefore, there is nothing wrong in the members continuing with the meeting after the Chairman had left the place where the meeting was being transacted.

2. However, something is to be said in favour of the petitioner. This is with regard to consideration of the matter which was not there on the agenda. When the Chairman leaves the meeting, then only those matters which were already there on the agenda should be taken into consideration. Consideration of any other matter outside the agenda would not be proper because there would be no notice of this to the members who left the meeting and who would not be present in the meeting. For this reason, the resolution by which the housing societies have been removed from the membership of the Society cannot be sustained.

3. This petition is allowed to the extent indicated above. Amount of security be refunded to the petitioner.