

(2009) 07 CHH CK 0055
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 2721 of 2009

Koushal Prasad Rajwade

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 28-07-2009

Acts Referred:

Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 — Rule 3(1)

Citation : (2009) 3 MPJR 122

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Judgement

Satish K. Agnihotri, J.

By this petition, the petitioner challenges the order dated 13.05.2009 (Annexure P/1), passed by the Additional Collector, Ambikapur, District - Surguja in Panchayat Revenue Case No. 7/A-89/08-09 (Ujit Ram Vs. State of Chhattisgarh).

Brief facts, in nutshell, are that on 16th May 2008, the petitioner (Koushal Prasad Rajwade), who was Up-Sarpanch of Gram Panchayat Koteya, Tahsil Pratappur, District Surguja, submitted a notice under Rule 3(1) of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (for short "the Rule, 1994) for bringing "no-confidence" motion against the Sarpanch/respondent No. 3 (Ujit Ram), before the Sub Divisional Officer (Revenue), Pratappur. The Sub Divisional Officer by order dated 16.05.2008 (Annexure P/2), registered the case and recorded the statements of the petitioner as well as 12 other Panchas, who had signed on the notice. Finding substance in the notice, Shri H.S. Dhruv, Naib Tehsildar, Pratappur was appointed as Incharge Officer to preside over the meeting of no-confidence motion. It was directed to issue notice to all the Panchas through Secretary of the Gram Panchayat, to remain present in Panchayat Bhawan on 29.05.2008.

The respondent No. 3, against whom the purported no-confidence motion was carried, made a reference u/s 21(4) of the Act, 1993, challenging the validity of the order dated 16.05.2008, which was registered as Panchayat Revision Case No. 7/A-89/08-09 before the Additional Collector, Ambikapur, District Surguja.

During the course of argument, it was informed at the bar by learned counsel appearing for the respondent No. 3 that subsequently, a second no-confidence motion was initiated and the proceedings of no-confidence motion has taken place on 15.06.2009. Thus this petition has become infructuous.

Learned counsel appearing for the petitioner does not controvert the above submission made by learned counsel appearing for the respondent No. 3.

By the impugned order dated 13.05.2009 the earlier no-confidence motion was held to be illegal. During the pendency of this petition the second no-confidence motion was carried out. Thus, at this stage it is not necessary to go into the merits of the case, as the petition has become infructuous so far as the first no-confidence motion dated 29.05.2008 in concerned, pursuant to the initiation of the second no-confidence motion. There is no challenge to the second no-confidence motion.

It is trite law that carrying of subsequent no-confidence motion would entail any decision on earlier no-confidence motion as academic. This Court, in Writ Petition (C) No. 2716 of 2008 (Udho Ram Verma Vs. State of Chhattisgarh & Others), relying on various decisions of Hon"ble Supreme Court, held as under:

23. A common thread running through dicta laid down by the Hon"ble Supreme Court in a catena of decisions above cited is that the Court should not decide a question, which has become academic except in special cases depending upon the facts of case, like a constitutional amendment which has been brought into operation and permits the violation of certain freedoms through laws passed for certairt purposes or other special facts depending on the issue involved in the case. In the present case, the issue does not involve any constitutional interpretation or any other special facts.

The writ petition is accordingly disposed of as having become infructuous. No order asto costs.