
(1980) 08 KAR CK 0027
In the Karnataka High Court
Case No : WP 5631 & 5632/80

K.P. Lingaraj

APPELLANT

Vs

Igur Village Panchayat and Others

RESPONDENT

Date of Decision : 19-08-1980

Acts Referred:

Constitution of India, 1950 — Article 226

Karnataka Village Panchayat and Local Boards Act, 1959 — Section 200

Citation : (1980) 2 KarLJ 425

Hon'ble Judges : N. D. Venkatesh, J

Judgement

1. Since common questions of law and facts arise in these two petitions they were clubbed and heard together re Rule.
2. Petitioner in W.P. No. 5631/80 is the Chairman and the petitioner in W.P. 5632/80 is the Vice Chairman of Igur village Panchayat, Sakleshpur Taluk, Hassan District.
3. The village Panchayat has a total number of 13 members. Since the requisite number of members wanted to move a No Confidence Motion against the Chairman and Vice Chairman a special meeting was called on 21-3-1980 for the said purpose. 12 members participated in the meeting. One of the seats, on the resignation of a member, had by then fallen vacant. A resolution, as per Annexure-B, was passed expressing no confidence in the Chairman and also in the Vice Chairman.
4. The petitioners seek an appropriate writ or order quashing that resolution, and a further direction to respondents not to take any action in pursuance to that resolution.
5. It was argued by the learned Counsel for the petitioners that the resolution, Annexure-B, expressing want of confidence in his clients, had not been passed by the requisite number of members as provided in S. 32 of the Karnataka Village Panchayats and Local Boards Act, 1959 (the Act), & as such was not in

accordance with law and was, therefore, liable to be quashed. He further submitted that there was a likelihood of the Deputy Commissioner of the District, the 3rd respondent therein, removing his clients from their respective offices in accordance with sub-sec (2) of S. 32 of the Act on the strength of that illegal resolution and that that officer has no alternative but to accept the no confidence motion and had no discretion in the matter, and that, therefore, interference at the hands of this Court is sought for.

6. On the other hand, it was argued by the learned Counsel for the contesting respondents that the no confidence resolution against the petitioners had been carried through in accordance with law; that there were no reasons to interfere with the same and that even otherwise, since there is an effective alternate remedy for the petitioners in the matter, they should not be permitted to invoke the writ jurisdiction of this Court and more so in a matter like this requiring investigation into controverted facts.

7. As provided in S. 32 of the Act read with the No Confidence motion against the Chairman or Vice-Chairman of a Panchayat (Procedure) Rules 1959 a no confidence motion against a Chairman or a Vice-Chairman is required to be carried through in accordance with law in the form of resolutions of the Village Panchayat concerned.

8. If a resolution expressing want of confidence in a Chairman or Vice-Chairman is passed, but if the same, according to the parties affected, is not in accordance with law, to avoid that resolution have they no other remedy except approaching this Court invoking its writ jurisdiction?

9. As provided in S. 196 of the Act the Commissioner, subject to the control and orders of the Government, is the chief controlling authority in respect of all matters relating to the administration of this Act. In this connection S. 200 may be seen which reads as follows:

"200. Deputy Commissioner's powers of suspending execution of Orders, Etc., of Panchayats and Taluk Boards: (1) Except in respect of cases expressly provided for in any other provision of this Act, if in the opinion of the Deputy Commissioner the execution of any order or resolution of a Panchayat or Taluk Board or any order of any authority or officer of the Panchayat or Taluk Board or the doing of anything which is about to be done, or is being done by or on behalf of a Panchayat or Taluk Board, is unjust, unlawful or improper, or is causing, or is likely to cause, injury or annoyance to the public or to lead to a breach of the peace, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof.

(2) When a Deputy Commissioner makes any order under sub-section (1), he shall forthwith forward to the Commissioner and to the Panchayat or Taluk Board affected thereby a copy of the order, with a statement of the reasons for making it; and the Commissioner may after such inquiry as may be necessary rescind or modify the order, as he deems fit."

As can be seen from what is extracted above the Deputy Commissioner is conferred with powers to suspend the execution of any resolution or prohibit the doing of anything which is about to be done by any Panchayat if he is of opinion that that resolution or the doing of anything is unjust, unlawful, or improper. When he passes any order in this connection, he is required to forward to the Commissioner and to the Panchayat or Taluk Board affected thereby a copy of the same with a statement of the reasons for making it. On receiving that report the Commissioner, may, if he feels necessary, rescind or modify the order of the Deputy Commissioner. The Dictionary meaning of the word "execute" means "to perform-to give effect to-to carry into effect-to put to use-bring into action" etc., (Chambers' 20th Century Dictionary). It is in that sense the word "execution" in relation to the resolution of the Village Panchayat is used in S. 200. S. 200 is in very wide terms. The Deputy Commissioner is conferred with powers not merely of suspending the resolution but also of prohibiting the doing of anything which is about to be done or is being done by or on behalf of a Panchayat provided that the same, in his view, is unjust, unlawful or improper. As provided in sub-section (2) the Deputy Commissioner is required to report to the Commissioner and send a copy of the order with a statement of the reasons for making it. The Commissioner, as already stated, is invested with powers of approving, rescinding, or modifying the resolution after such enquiry as may be necessary. It may also be noted that the Government, exercising their powers under Sec. 197(3) of the Act, have delegated the powers of the Deputy Commissioner under S. 200 to the Assistant Commissioners of the Revenue Sub-division concerned (vide Notification No. LLH 22 RPA 60, Bangalore, dated 22-7-1960) A person aggrieved by a resolution of the Village Panchayat expressing want of confidence in the Chairman or Vice Chairman may approach the authority concerned under S. 200 bringing to his notice the contents of that resolution. As referred to above very wide powers are conferred under Section 200 on the authority concerned to investigate into the allegations and to do justice between the parties. This is an effective alternate remedy in cases like these, and hence I am not inclined to issue Rule.

10. Therefore, Rule not issued and the petitions are dismissed. No costs.