
(1995) 08 KAR CK 0019
In the Karnataka High Court
Case No : Writ Petition No. 31326 of 1995

Krishnappa

APPELLANT

Vs

Deputy Commissioner

RESPONDENT

Date of Decision : 22-08-1995

Acts Referred:

Karnataka Panchayat Raj (Motion of no-confidence against Adhyaksha and Upadhyaksha of Grama Panchayat) Rules, 1994 — Rule 3
Karnataka Panchayat Raj Act, 1993 — Section 49

Citation : (1996) ILR (Kar) 556 : (1995) 5 KarLJ 585

Hon'ble Judges : Tirath S. Thakur, J

Bench : Single Bench

Advocate : B. Rudragowda, for the Appellant;

Final Decision : Dismissed

Judgement

Tirath S. Thakur, J.—The petitioner is presently working an Adhyaksha of Marikoppam Gram Panchayat, Marikoppa. A no confidence motion appears to have been moved against him before the Assistant Commissioner, who has, in terms of Rule 3(2) of the Karnataka Panchayat Raj (Motion of no-confidence against Adhyaksha or Upadhyaksha of Gram Panchayat) Rules, 1994, issued a notice convening the meeting of the Panchayat for 26th August 1995 for considering the said motion.

2. Aggrieved of the said notice, the petitioner has filed the present Writ Petition to contend that since the post of Adhyaksha had been reserved for a S.C. candidate and since the petitioner was the only Scheduled Caste candidate out of the members of the panchayat, a non-confidence motion was not permissible in law against him nor could the same be taken up for discussion in the meeting proposed to be held under the impugned notice.

3. I have heard Sri B. Rudragowda, learned Counsel for the petitioner, who argued that in terms of Section 46 of the Karnataka Panchayat Raj Act, 1993 the term of office of every Adhyaksha and every Upadhyaksha of the Gram

Panchayat shall, cease only on the expiry of his term of office as a Member of the Grama Panchayat. He urged that since the petitioner's term as a Member of the Panchayat expires in the year 1989 his continuance as Adhyaksha was protected u/s 46 of the Act till the date of expiry of his term as a Member of the Panchayat. Alternatively he submitted that the post of Adhyaksha being reserved for a S.C. candidate and the petitioner being the only Schedule Caste member of the Panchayat, he could not be removed from the said office on the basis of a no-confidence motion brought against him. I find no merit in either one of the arguments. The reasons are obvious.

4. The provisions of Section 49 of the Karnataka Panchayat Raj Act 1993 relate to Motions of no-confidence brought against Adhyakshas or Upa-Adhyakshas of Grama Panchayats and provides that every Adhyaksha or Upadhyaksha of Grama Panchayat shall forthwith be deemed to have vacated his office if a resolution expressing want of confidence in him is passed by a majority of not less than two thirds of the total number of members of the Grama Panchayat at a meeting specially convened for the purpose in accordance with the procedure that may be prescribed. In exercise of the powers vested in it u/s 49 of the Act, the Government has framed Rules known as Karnataka Panchayat Raj (Motion of No-confidence against Adhyaksha and Upadhyaksha of Gram Panchayat Rules, 1994 which prescribe the procedure for consideration of motions of no-confidence moved against Adhyakshas and Upadhyakshas. In terms of Rule 3(2) of the said Rules on receipt of a motion of non-confidence, the Assistant Commissioner is bound to convene a meeting for consideration of the same at the office of the Grama Panchayat on a day to be appointed by him not being less than 30 days from the date on which the notice was | delivered to him. A plain reading of Section 49 read with Rule 3 of the aforesaid Rules shows that a Scheduled Tribe candidate holding the post of an Adhyaksha is not in any manner immune from the rigors of a non-confidence motion in terms of the said provision. The very fact, therefore, that the petitioner is the only S.C. candidate in the Grama Panchayat does not necessarily mean that he cannot consequent upon the passing of a no-confidence brought against him be removed from the post held by him.

5. Mr. Rudragowda, however, argued that even after removal of the petitioner he will continue to be the only candidate eligible to be elected to the post of Adhyaksha and that his removal would be an exercise in futility, since he alone would be entitled to be re-elected to the said post. I am not impressed by this submission. As to what will happen if the post held by the petitioner is vacated by him in consequence of a no confidence motion passed against him is something with which I am not concerned at this stage. The petitioner may or may not be re-elected to the said office. But the very fact that he may be the only one who can be re-elected is no reason to hold that he is immune to removal, even upon losing the confidence of 2/3rd of the membership of the Panchayat. In other words the continuance of an Adhyaksha or an Upadhyaksha, regardless whether he belongs to a Schedule Caste or Schedule Tribe, is subject

to the provisions of Section 49 of the Act meaning thereby that any such office bearer can be removed from his office in consequence of the passing of a non-confidence motion against him in accordance with the procedure prescribed by the Rules. Any other view can in my opinion be taken only by doing violence to not only the provisions of Section 49 and the Rules framed therefore but even to the very concept of Panchayats being democratic institutions. It is in fact inconceivable that in a democratic institution like the Panchayat any one holding an elected office could claim immunity from removal, even when he ceased to enjoy the confidence of the 2/3rd of the elected membership of the House simply because he belongs to any reserved category or that the position is reserved for a person belonging to any such category. I have, therefore, no hesitation in rejecting the argument advanced on behalf of the petitioner.

6. In that view of the matter, the impugned notice issued by the Assistant Commissioner does not suffer from any error of law or jurisdiction so as to warrant any interference from this Court. This Petition fails and is accordingly dismissed.