
(2003) 12 OHC CK 0024
In the Orissa High Court
Case No : Writ Petition (C) No. 3012 of 2003

Kulamani Mallik

APPELLANT

Vs

The Collector and Others

RESPONDENT

Date of Decision : 08-12-2003

Acts Referred:

Orissa Grama Panchayat Act, 1964 — Section 115

Citation : (2004) 97 CLT 135 : (2004) 1 OLR 46

Hon'ble Judges : P.K. Tripathy, J;A.S. Naidu, J

Bench : Division Bench

Advocate : S.P. Mishra, J.K. Mishra, S. Mishra, S. Nanda and S.S. Satpathy, for the Appellant; R.K. Pattnaik, S.C. Puspalak, A.N. Samantray, S.C. Beura and A.K. Mishra, SC, for the Respondent

Final Decision : Allowed

Judgement

P. K. Tripathy, J.—Heard Mr. Mishra, learned counsel for the petitioner and Mr. P. K. Mohanty, learned Additional Government Advocate.

2. Petitioner, the elected Sarapanch of Baulanga Grama Panchayat has challenged the order of his suspension dated 12.3.2003 passed by the Collector, Puri vide Annexure-4.

3. According to Mr. Mishra, learned counsel for the petitioner, the order is vague and does not disclose any overt act, omissions or commissions by the petitioner. It is also forcefully submitted that the Collector has not followed the mandatory requirement of the provisions of Section 115 of the Orissa Grama Panchayat Act before passing the order of suspension and as such, the same is liable to be struck down.

4. Suspension of an elected representative is indeed a drastic action and should not be taken recourse to cursorily and in a mechanical manner. Having vested the power with the Executive to suspend an elected representative, the Legislature has provided safeguards against arbitrary exercise of the same.

Therefore, while bringing the tenure of an elected representative to an end either temporarily or prematurely, utmost care and circumspection should be exercised. Right of an elected representative to continue in his office for the full tenure, should not be lightly tinkered with by the Collector.

5. On perusal of the order of suspension, vide Annexure-4, it clearly reveals that the reasons given are vague, cryptic and do not satisfy the mandatory requirements of Section 115 of the Orissa Grama Panchayat Act. While alleging that the Sarpanch violated the provisions of Orissa Grama Panchayat Act and the Rules thereunder, it is not specified as to which provision of the Act or Rules he violated. Similarly, specific allegations with regard to wilful abuse of powers, right and privileges vested in him have not been specified. Without stating the specific instances with regard to the violation of the provisions of the Act and Rules or without nomenclating the specific actions or omissions as willful abuse of powers and/or rights or privileges, we feel, an elected Sarpanch cannot be suspended on vague assertions.

6. Though there is no dispute in the legal proposition that a Sarpanch can be suspended in exercise of power u/s 115 of Grama Panchayat Act, Law is well settled that if the Collector intends to ascribe any imputation, the same should be specific, clear and not vague.

7. After hearing learned counsel for the parties, we have no hesitation to set aside the order of suspension under Annexure-4. However, we give liberty to the Collector, Puri to take action u/s 115 of the Orissa Grama Panchayat Act if exigencies exist by passing necessary orders strictly in consonance with provisions of u/s 115 of the G.P. Act. We also give liberty to the petitioner to approach the State Government if so advised u/s 115(3)(a) of the Act, in the event he is aggrieved by any order passed by the Collector.

8. With the aforesaid observations, the writ petition is allowed.

A. S. Naidu, J.

9. I agree.