

---

**(1998) 03 MP CK 0019**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 346 of 1998**

Lakhan Singh Rati Ram Yadav

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

---

**Date of Decision : 04-03-1998**

**Acts Referred:**

Madhya Pradesh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke Adhyaksha Tatha Upadhyaksha Ke Virudh Avishwas Prastav) Niyam, 1994 — Rule 3

**Citation :** (1998) 1 MPJR 349 : (1998) 1 MPLJ 682

**Hon'ble Judges :** Tej Shankar, J

**Bench :** Single Bench

**Advocate :** M.P.S. Raghuwanshi, for the Appellant; R.K. Vashistha, A.A.G., for the Respondent

**Final Decision :** Dismissed

---

## **Judgement**

Tej Shankar, J.

The petitioner is admittedly an Elected Sarpanch of Gram Panchayat Aabas, Tehsil Karera, District Shivpuri (M.P.). On 4-2-1998 some members of the Gram Panchayat, Aabas submitted a notice for calling a meeting of no confidence against him. The competent Authority on being satisfied fixed 19-2-1998 as the date for meeting which has been annexed as Annexure P-2. The respondent No. 3 was appointed as Presiding Officer to preside over the meeting of no-confidence. But before the date fixed he adjourned the meeting for 5-3-1998 illegally and against the provisions of law. The petitioner, therefore, challenged the order Annexure P-1 dated 19-2-1998 and also prayed for a direction to the respondents not to conduct the meeting of no-confidence against him for the further period of one year.

The contention raised by the learned counsel for the petitioner is that under Rule 3 of the Madhya Pradesh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janapad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-

President Ke Virudh Avishwas Prastav) Niyam, 1994 (hereinafter referred to as the Rules), a notice is necessary to be given under Clause 1 of this rule. Clause 3 provides that on receipt of the notice the Prescribed Authority has to satisfy himself about admissibility of the notice with reference to sections 21(3), 28(3) and 35(3) and on being satisfied has to fix the date, time and place for the meeting which shall not be more than 15 days from the date of receipt of the said notice. Under the same provision in the notice of such meeting specified date, time and place has to be despatched through the Secretary to every member of the Panchayat concerned 7 days before the meeting. In the present case a notice as required under clause 1 was issued by the Prescribed Authority and the date was fixed within the time allowed by law. It was 19th February, 1998. The learned counsel further contended that Tahsildar was authorised to preside over the meeting. However, before the date fixed the Presiding Officer, i.e., respondent No. 3 adjourned the meeting and fixed date 5-3-1998 which is a clear violation of law. He, therefore, urged that the adjournment made by the Presiding Officer is illegal on two counts; firstly, the Tahsildar i.e. Presiding Officer had no jurisdiction to adjourn the meeting, and, secondly, the meeting could not be adjourned to the period beyond 15 days. In support of his contention he pressed into service 1996 MPLJ 409 : 1996 JLJ 231, Hargovind Johari v. Zila Panchayat, Morena. The learned counsel for the State on the other hand contended that powers of adjournment is inherent as laid down by the Division Bench of this Court in 1975 MPLJ 190 : 1975 JLJ 500, Shankerlal v. Collector, Mandsaur and as such it could not be said that the meeting cannot be adjourned. He also argued that in Dhumadandhin Vs. State of Madhya Pradesh and Others, . it has been held that even if a meeting is held beyond period of 15 days from the date of notice it cannot be said to be invalid. Learned counsel referred to para 5 of this case.

The argument advanced before me by the learned counsel for the parties raise two important questions: The first point for the determination is, as to whether, the meeting could be adjourned and in case it could be adjourned whether it could be adjourned by the Presiding Officer. The next question is as to whether the meeting could be adjourned beyond 15 days. From the date of notice.

As far as the first question relating to power of adjournment is concerned, I may mention that this matter stands concluded by the decision of a Division Bench of this Court reported in 1975 MPLJ 90 : 1975 JLJ 500 (supra). In this case it was specifically laid down:

"subject to specific provisions made for the purpose, the power of adjournment is inherent for proper conduct of business where business is to be transacted at a meeting of the assembly. An adjourned meeting is merely a continuation and not a new meeting."

The above case was considered by the learned single Judge in 1996 MPLJ 409 : 1996 JLJ 231 and the relevant provisions of rules 1964 as well as Rules of 1994 were taken into consideration. The learned counsel for the petitioner contended

that the said authority of Shanker Lal 1975 MPLJ 190 = 1975 JLJ 500) has no bearing as it relates to the old rules. It cannot be doubted that at the time when the said decision of Shankerlal's case was passed the old rules were prevalent but to my mind it will not make any difference so far as the principle of law is concerned. The Division Bench specifically held that subject to specific provision made for the purpose the power of adjournment is inherent. There was no specific provision of adjournment either in the rules of 1964 or in the rules of 1994 hence the principle laid down in this authority that the power of adjournment is inherent has to be accepted and has binding effect. Consequently, I hold that it cannot be argued that there was no power of adjournment. The point stands concluded by the above decision.

Once it is found that power of adjournment was inherent it has to be seen as to who is the competent authority to adjourn the meeting. The contention of the learned counsel for the petitioner is that meeting was fixed by the Prescribed Authority and hence it was the Prescribed Authority who can alone adjourn the meeting and not the Presiding Officer. I have given my anxious consideration to this argument of the learned counsel for the petitioner. It may be pointed out that once the meeting was fixed by the Prescribed Authority and an officer has been appointed as a Presiding Officer it is he who is seized of the matter because he has to preside over the meeting. It is he who is responsible for the conduct of the meeting. In this view of the matter it can safely be inferred that it is the Presiding Officer in whom the inherent power to adjourn the meeting is vested. Consequently, the contention that the Presiding Officer has no jurisdiction to adjourn the meeting cannot be accepted. I therefore repel it. Another argument of the learned counsel for the petitioner may also be mentioned here that the meeting was adjourned even before the date fixed by the Presiding Officer because the date fixed was 19th February, 1998 and by the impugned order the meeting was adjourned on 18th February, 1998. With respect to this argument I may say that once a Presiding Officer has been conferred a power to preside with the meeting with respect to certain matter he has all the powers as Presiding Officer including inherent power to adjourn. This power can therefore be exercised even earlier for justifiable reasons, Annexure P-I through which the notice has been issued shows that the Tahsildar has adjourned the meeting on the ground that on account of election work and maintenance of law and order he was not in a position to hold meeting and the meeting was adjourned. This cannot be said to be inadequate and unreasonable ground for adjournment. I, therefore, hold that Presiding Officer i.e., Tahsildar had jurisdiction to adjourn the meeting.

Now I come to the next argument of the learned counsel as pointed out earlier that meeting could not be adjourned for the period more than 15 days from the date of notice. He referred to provision of Clause 3 of Rule 3 of the said rules; as well as the above authority of Hargovind Johari v. Zila Panchayat, Morena (supra). In this connection it is necessary to peruse the words used in Clause 3 of Rule 3. It provides that being satisfied the Prescribed Authority has to fix the

date, time and place for the meeting of the Gram-Panchayat, Janapad Panchayat or Zila Panchayat as the case may be which should not be more than 15 days from the date of receipt of the said notice. It, therefore, clearly means that it is for the Prescribed Authority to fix a date not later than 15 days from the date of notice and admittedly the Prescribed Authority did fix the date within a period of 15 days from the date of receipt of the notice, in due compliance of this provision. The notice has not been assailed on this ground. The challenge made by the learned counsel for the petitioner is that the next date could not be fixed beyond 15 days. I have carefully persued the Clause 3 of Rule 3 and do not find anything in it which may support the learned counsel for the petitioner. To my mind there is a complete compliance of this rule if the Prescribed Authority fixes a date, time and place for the meeting not more than 15 days from the date of receipt of the notice. Once the date is fixed in accordance with this provision by the Prescribed Authority there is complete compliance of the law. If the Presiding Officer adjourned the meeting in exercise of inherent power vested in him as held above and that date falls beyond 15 days, it cannot be argued that it is in violation of Clause 3 of Rule 3. This aspect was neither raised nor considered in the case of Hargovind Johari (*supra*) relied upon by the learned counsel for the petitioner. I am, therefore, of the view that the adjournment made by the Presiding Officer cannot be said to be illegal.

The learned counsel for the respondent as said earlier placed reliance upon another decision of this Court reported in *Dhumadandhin Vs. State of Madhya Pradesh and Others*, . The facts of that case were different and I need not go into details of that authority. It may, however, be mentioned that in that case a notice of no confidence of motion against the Sarpanch was received by the Prescribed Authority and date fixed was beyond 15 days. The meeting was held and no-confidence motion was carried by majority which was challenged in that case on the ground that the meeting was fixed beyond 15 days. The Petition was dismissed holding that the meeting held beyond period of 15 days from the date of notice could not be held to be illegal. Two other grounds were also mentioned: Firstly, it was observed that the petitioner did not challenge the notice issued fixing the date of notice beyond 15 days and, secondly, that petitioner participated in the proceedings and having failed therein filed the petition. Thus the facts of that case were different. The learned counsel for the petitioner contended that in the present case he has come within 15 days of the adjournment hence he can assail the adjournment. In view of what has been held above this contention has no force.

Before parting with the matter I may also point out the last contention of the learned counsel for the petitioner. He urged that a Single Judge of this Court in *Hargovind Johari's* case took a contrary view than what have been taken above. The matter may be referred to a larger bench. I do not think that it is a case where a reference is required because the point mentioned above was neither raised nor decided in the aforesaid single bench decision.

In view of what has been said above I find no merit in the petition. It is, accordingly, dismissed.