

**(1999) 01 KAR CK 0014**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 38996 of 1998**

Lakshmappa Balaganur

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

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**Date of Decision :** 12-01-1999

**Acts Referred:**

Constitution of India, 1950 — Article 162

Karnataka Panchayat Raj Act, 1993 — Section 159 (2), 177 (1), 179, 180 (2) (a)

**Citation :** AIR 1999 Kar 246 : (1999) 3 KarLJ 225

**Hon'ble Judges :** P. Vishwanatha Shetty, J

**Bench :** Single Bench

**Advocate :** Sri B.V. Acharya, for Sri C.H. Jadhav, for the Appellant; Sri S. Mahesh, Additional Government Advocate, Sri Ashok Haranahalli and Sri Shantesh Gureddy, for the Respondent

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## Judgement

1. The petitioner, in this petition, is the President of Zilla Panchayat, Bagalkot.
2. In this petition, the petitioner has sought for quashing the notice dated 15th of December, 1998, a copy of which has been produced as Annexure-G, issued by the second respondent convening a meeting on 28th of December, 1998 to consider the No Confidence Motion moved against the petitioner and Upadhyaksha of Bagalkot Zilla Panchayat.
3. A few facts, which are not in serious dispute and which may be relevant for the disposal of this petition, may be stated as hereunder:-
  - (a) Bagalkot Zilla Panchayat was earlier a part of Bijapur Zilla Panchayat. Consequent upon the bifurcation of Bijapur District as two districts, namely Bijapur District and Bagalkot District, Bagalkot Zilla Panchayat came to be constituted. Bagalkot Zilla Panchayat consists of 27 elected members and 19 ex officio members. Consequent upon the formation of Bagalkot Zilla Panchayat (hereinafter referred to as "the Panchayat"), the petitioner was elected as the Adhyaksha of the Panchayat in the election held on 22nd of April, 1998. A special

meeting notice dated 21st of November, 1998, a copy of which has been produced as Annexure-A, was given to the petitioner signed by ten elected members of the Panchayat on 27th of November, 1998, requesting him to convene a meeting to decide want of confidence expressed by them against him. Since, inspite of notice Annexure-A, the petitioner did not convene the meeting within 15 days from the said notice Annexure-A as required under sub-section (2) (a) of Section 180 of the Karnataka Panchayat Raj Act, 1993 (hereinafter referred to as "the Act"), eleven elected members of the Panchayat gave a notice to the Chief Executive Officer of the Panchayat, a copy of which has been produced as Annexure-F, requesting him to convene a meeting of the elected members of the Panchayat to consider the vote of no-confidence motion moved against the petitioner. Pursuant to the said notice Annexure-F, the second respondent-Chief Executive Officer of the Panchayat had issued notice Annexure-G dated 15th of December, 1998 for convening a meeting on 28th of December, 1998. As noticed by me earlier, the correctness of the said notice is called in question in this petition.

4. This Court, on 24th of December, 1998, made an interim order of stay of the proposed meeting. During the pendency of the petition, on the application filed by respondents 3 to 16 to come on record, they were permitted to come on record.

5. Sri B.V. Acharya, learned Senior Counsel appearing along with Sri C.H. Jadhav, challenging the correctness of the meeting convened by the second respondent, submitted that notice Annexure-A and notice Annexure-F having been admittedly signed by less than one-third of the members of the Panchayat, the meeting convened by the second respondent pursuant to the said notice as per Annexure-G, must be held as one without the authority of law inasmuch as the said notice is issued in total disregard of the provisions contained in sub-section (2)(a) of Section 180 of the Act. Therefore, he submitted that admittedly the signatories to notice Annexure-A being less than one-third of the members of the Panchayat, it must be held that there was no fault on the part of the petitioner in convening the meeting; and under those circumstances, it was not permissible for the second respondent to issue notice Annexure-G convening the meeting. It is his submission that though Adhyaksha or Upadhyaksha of a Panchayat would vacate his office forthwith if a resolution expressing want of confidence in him is passed by a majority of the total number of elected members of the Panchayat at a meeting specially convened for the said purpose, such special meeting is required to be convened in strict compliance of sub-section (2)(a) of Section 180 of the Act. He further pointed out with reference to various provisions in the Act that the legislature had clearly kept in mind the distinction between the elected members of the Panchayat and also the members of the Panchayat; and under those circumstances, when the legislature has consciously stated in sub-section (2)(a) of Section 180 of the Act that one-third of the members of the Panchayat must give a requisition convening a special meeting, there is absolutely no justification to read into that provision that one-third of the members must be

construed as one-third of the elected members of the Panchayat. Sri Acharya, in support of his plea that when the language employed in sub-section (2)(a) of Section 180 of the Act is clear, it is the duty of the Court to give effect to the language of the statute, relied upon the decision of the Supreme Court in the case of *Kanai Lal Sur v Paramnidhi Sadhukhan* and drew my attention to paragraph 4 of the said decision; and also the decision in the case of *Senior Superintendent, R.M.S., Cochin and Another v K.V. Gopinath, Sorter* and referred to me the passage at page 33 in "The Principles of Statutory Interpretation" by Justice G.P. Singh. Further, relying upon the letter dated 19th of June, 1997 in No. RDP 141 ZPS 97 written by the first respondent-State Government to the Chief Executive Officer of the Zilla Panchayat, Gulbarga, wherein it is stated that a special meeting under sub-section (2)(a) of Section 180 of the Act is required to be convened by one-third of the members of the Panchayat. Sri Acharya submitted that when the State itself has understood that a special meeting for the purpose of considering the resolution for moving want of confidence against Adhyaksha is required to be convened by one-third of the members of the Panchayat, there is absolutely no justification for this Court to strain the language and take a view that one-third of the members of the Panchayat contemplated under sub-section (2)(a) of Section 180 of the Act must be understood as only one-third of the elected members of the Panchayat.

5-A. However, Sri Ashok Haranahalli, learned Counsel appearing along with Sri Shantesh Gureddy for respondents 3 to 16, strongly supported the correctness of the impugned notice. He submitted that Adhyaksha and Upadhyaksha of the Panchayat are elected among the votes cast by the elected members of the Panchayat as provided under sub-section (2) of Section 159 of the Act and it is clear from sub-section (3) of Section 179 of the Act that Adhyaksha and Upadhyaksha will vacate the office if a majority of the elected members express vote of confidence against them. Therefore, he pointed out that when the right to elect Adhyaksha and Upadhyaksha is given to the elected members and power to remove them by expressing vote of no-confidence is also given to the elected members, it would lead to absurd results if the literal meaning is attached to sub-section (2)(a) of Section 180 of the Act and held that one-third of the members of the Panchayat must sign the requisition for a special meeting to consider want of confidence. Therefore, he submitted that the language employed in sub-section (2)(a) of Section 180 of the Act providing for one-third of the members of the Panchayat insofar as it relates to the convening of the meeting for consideration of want of confidence either in Adhyaksha or Upadhyaksha of the Panchayat is concerned, it must be construed as one-third of the elected members of the Panchayat. He further submitted that under these circumstances, the Court is required to place harmonious construction to both the provisions viz., sub-section (2)(a) of Section 180 and sub-section (3) of Section 179 of the Act. In support of his plea, he also relied upon the decision of the Supreme Court in the case of *Commissioner of Income Tax v J.H. Gotla* and referred to me paragraph 46 at page 1708. Insofar as the letter dated 19th of

June, 1997 relied upon by Sri Acharya is concerned, Sri Haranahalli pointed out that this Court has to interpret the provision of law keeping in mind the correct interpretation to be placed on the provision of law and not on the basis as to how the Government understood the provision of law.

6. Sri S. Mahesh, learned Additional Government Advocate appearing for the first respondent-State Government, while adopting the argument of Sri Acharya, submitted that from the language provided under sub-section (2)(a) of Section 180 of the Act, it is clear that only one-third of the members of the Panchayat can convene a special meeting and the same has been clarified in the letter dated 19th of June, 1997 written by the State Government and relied upon by Sri Acharya.

7. In the light of the rival contentions advanced by the learned Counsel appearing for the parties, the question of considerable importance that would arise for my consideration, is as to whether one-third of the members of the Panchayat alone can convene a special meeting for the purpose of considering no-confidence motion against Adhyaksha or Upadhyaksha of the Panchayat or whether one-third of the elected members of the Panchayat also can convene a special meeting for the said purpose?

8. Before I proceed to consider the said question, it may be useful to refer to sub-section (2) of Section 159, sub-section (3) of Section 179 and sub-section (2)(a) of Section 180 of the Act. They read as hereunder:-

"159. Constitution of Zilla Panchayat.--(2) The members of the House of People, the State Legislative Assembly, the Council of States and the Legislative Council and the Adhyakshas of Taluk Panchayat referred to in clauses (ii), (iii) and (iv) of sub-section (1) shall be entitled to take part in the proceedings, and vote at, the meetings of the Zilla Panchayat except at a meeting convened for the purpose of election of Adhyakshas and Upadhyakshas under sub-section (1) of Section 177 or for considering a no-confidence motion under sub-section (3) of Section 179.

179. Resignation or removal of Adhyaksha and Upadhyaksha.--(3) Every Adhyaksha and every Upadhyaksha of Zilla Panchayat shall be deemed to have vacated his office forthwith if a resolution expressing want of confidence in him is passed by a majority of the total number of elected members of the Zilla Panchayat at a meeting specially convened for this purpose:

Provided .....

180. Meetings of Zilla Panchayat.--(2)(a) The date of the first meeting of the Zilla Panchayat after the first constitution or re-constitution or the date of subsequent meeting for the purpose of election of Adhyaksha or Upadhyaksha as the case may be, shall be fixed by the Commissioner, who shall preside at such meeting, and the date of each subsequent ordinary meeting shall be fixed at the previous meeting of the Zilla Panchayat, provided that the Adhyaksha of Zilla Panchayat may for sufficient reasons, alter the date of the meeting to a subsequent date.

The Adhyaksha may, whenever he thinks fit, and shall, upon the written request of not less than one-third of the total number of members and on a date within fifteen days from the receipt of such request, call a special meeting. Such request shall specify the object for which the meeting is proposed to be called. If the Adhyaksha fails to call a special meeting, the Upadhyaksha or one-third of the total number of members of the Zilla Panchayat may call the special meeting for a day not more than fifteen days after presentation of such request and require the Chief Executive Officer to give notice to the members and to take such action as may be necessary to convene the meeting".

(emphasis supplied)

9. It is now well-settled that when the language in a statute is clear, unambiguous and admits of no doubt, it is the plain duty of the Court to give effect to the language employed in a provision of a statute. It is not permissible for the Court to go into the intention of the legislature and on that basis, to interpret the provision contrary to the plain meaning of the provision in a statute. It is also well-settled principle of law that if the words of a statute are clear and free from any vagueness and are reasonably susceptible to only one meaning, it must be construed by giving effect to that meaning irrespective of the consequences; and where the language is explicit, its consequences are for Parliament and not for the Courts. This principle is well accepted by the Courts because it is the primary rule of construction that the intention of the legislature must be found in the words used by the legislature itself. However, it is also necessary to point out that if the language is ambiguous and if it is literally construed the provision in a statute is likely to result in absurdity, the Court is required to harmoniously construct the provision and interpret the provision which would achieve the intendment of the law makers. In this context, it may be useful to refer to the law on the subject as enunciated by the Supreme Court and also as expressed by the renowned Authors.

(a) In the case of Kanai Lal, *supra*, the Supreme Court, at paragraph-6 of the judgment, has observed thus.-

"(6) Mr. N.C. Chatterjee, for the appellant, has contended that the object in enacting the relevant Thika Tenancy Acts and Ordinances is absolutely clear. It is a piece of welfare legislation and as such its operative provisions should receive a beneficent construction from the Courts. If the scheme of the Act and the object underlying it is to afford full protection to the thika tenants, says Mr. Chatterjee, Courts should be slow to reach the conclusion that any class of thika tenants are excluded from the benefit of the said Act.

In support of his argument, Mr. Chatterjee has naturally relied on the observations made by Barons of the Exchequer in Heydon's case (1584)3 Co. Rep. 7. Indeed these observations have been so frequently cited with approval by Courts administering provisions of welfare enactments that they have now attained the status of a classic on the subject and their validity cannot be

challenged.

However, in applying these observations to the provisions of any statute, it must always be borne in mind that the first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself. If the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such hypothetical construction is more consistent with the alleged object and policy of the Act.

The words used in the material provisions of the statute must be interpreted in their plain grammatical meaning and it is only when such words are capable of two constructions that the question of giving effect to the policy or object of the Act can legitimately arise. When the material words are capable of two constructions, one of which is likely to defeat or impair the policy of the Act whilst the other construction is likely to assist the achievement of the said policy, then the Courts would prefer to adopt the latter construction.

It is only in such cases that it becomes relevant to consider the mischief and defect which the Act purports to remedy and correct. Indeed Mr. Chatterjee himself fairly conceded that he would not be justified in asking the Court to put an undue strain on the words used in the section in order that a construction favourable to the thika tenants should be deduced. It is in the light of this legal position that we must now consider Section 5, sub-section (1) of West Bengal Act, 11 of 1949, amended by West Bengal Act VI of 1953".

(emphasis supplied)

(b) In the case of *Nelson Motis v Union of India and Another*, the Supreme Court, at paragraph-8 of the decision, while considering the nature of the interpretation to be placed on sub-rules (3) and (4) of Rule 10 of C.C.S. (C.C.A.) Rules, 1965, has observed thus.-

"8. The language of sub-rule (4) of Rule 10 is absolutely clear and does not permit any artificial rule of interpretation to be applied. It is well-settled that if the words of a statute are clear and free from any vagueness and are, therefore, reasonably susceptible to only one meaning, it must be construed by giving effect to that meaning, irrespective of consequences. The language of the sub-rule here is precise and unambiguous and, therefore, has to be understood in the natural and ordinary sense. As was observed in innumerable cases in India and in England, the expression used in the statute alone declares the intent of the legislature. In the words used by this Court in *State of Uttar Pradesh Vs. Dr. Vijay Anand Maharaj*, , when the language is plain and unambiguous and admits of only one meaning, no question of construction of a statute arises, for the Act speaks for itself. Reference was also made in the reported judgment to Maxwell stating.-

"The construction must not, of course, be strained to include cases plainly

omitted from the natural meaning of the words". The comparison of the language with that of sub-rule (3) reinforces the conclusion that sub-rule (4) has to be understood in the natural sense. It will be observed that in sub-rule (3) the reference is to "a Government servant under suspension" while the words "under suspension", is omitted in sub-rule (4). Also the sub-rule (3) directs that on the order of punishment being set aside, "the order of his suspension shall be deemed to have continued in force" but in sub-rule (4) it has been said that "the Government servant shall be deemed to have been placed under suspension". The departure made by the author in the language of sub-rule (4) from that of sub-rule (3) is conscious and there is no scope for attributing the artificial and strained meaning thereto. In the circumstances it is not permissible to read down the provisions as suggested. We, therefore, hold that as a result of sub-rule (4), a Government servant, though not earlier under suspension, shall also be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, provided of course, that the order conditions mentioned therein are satisfied".

(c) In *Ajay Pradhan v State of Madhya Pradesh*, at paragraph 7 on page 1878, the Supreme Court has observed as follows.-

"7. The whole controversy turns on the purport and effect of Rule 10 of the Rules prescribing the manner in which seats available in any particular year are to be filled, and is in these terms.-

"10. The seats available in any particular year will be filled up in that year. No candidates will be admitted against the seats remaining vacant from previous year."

We must interpret Rule 10 by the written text. If the precise words used are plain and unambiguous, we are bound to construe them in their ordinary sense and give them full effect. The argument of inconvenience and hardship is a dangerous one and is only admissible in construction where the meaning of the statute is obscure and there are alternative methods of construction. Where the language is explicit its consequences are for Parliament, and not for the Courts, to consider. "Where the language of an Act is clear and explicit", said AIR 1945 48 (Privy Council) , "we must give effect to it whatever may be the consequences for in that case the words of the statute speak the intention of the legislature". We do not see why the same rule of construction should not apply to the Rules framed by the State Governments under Article 162 of the Constitution".

(d) The Privy Council, in the case of *Pakala Narayana Swami v Emperor*, has stated as follows.-

"..... But, in truth when the meaning of words is plain it is not the duty of the Courts to busy themselves with supposed intentions.

I have been long and deeply impressed with this wisdom of the rule, now I believe universally adopted, at least in the Courts of law in Westminster Hall,

that in construing wills and indeed statutes, and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no further: Lord Wensleydale in (1875)6 HLC 613.

My Lords, to quote from the language of Tindal, C.J. when delivering the opinion of the Judges in (1844)11 CL 143, "The only rule for the construction of Acts of Parliament is that they should be construed according to the intent of the Parliament which passed the Act. If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do in such case best declare the intention of the law-giver. But if any doubt arises from the terms employed by the legislature, it has always been held a safe means of collecting the intention, to call in aid the ground and cause of making the statute, and to have recourse to the preamble which according to Dyer C.J. [(1562)1 353] is a key to open the minds of the makers of the Act, and the mischiefs which they are intended to redress: Lord Halsbury LC in (1891) AC 531 .

In this case the words themselves declare the intention of the legislature. It therefore appears inadmissible to consider the advantages or disadvantages of applying the plain meaning whether in the interests of the prosecution or the accused ....".

(e) In Maxwell on the Interpretation of Statutes, Twelfth Edition, while considering the general principles of interpretation, at page 29, it is stated thus:-

"Where the language is plain and admits of but one meaning, the task of interpretation can hardly be said to arise. "The decision in this case," said Lord Morris of Borth-y-Gest in a revenue case, "calls for a full and fair application of particular statutory language to particular facts as found. The desirability or the undesirability of one conclusion as compared with another cannot furnish a guide in reaching a decision. Where, by the use of clear and unequivocal language capable of only one meaning, anything is enacted by the legislature, it must be enforced however harsh or absurd or contrary to common sense the result may be. The interpretation of a statute is not to be collected from any notions which may be entertained by the Court as to what is just and expedient: words are not to be construed, contrary to their meaning as embracing or excluding cases merely because no good reason appears why they should not be embraced or excluded. The duty of the Court is to expound the law as it stands, and to "leave the remedy (if one be resolved upon) to others".

(f) Similar is the principle stated by Craies on Statute Law, Seventh Edition. At pages 64 and 65, it is stated thus:-

"The cardinal rule for the construction of Acts of Parliament is that they should be construed according to the intention expressed in the Acts themselves. If the

words of the statute are themselves precise and unambiguous, then no more can be necessary than to expound those words in their ordinary and natural sense. The words themselves alone do in such a case best declare the intention of the lawgiver. "The Tribunal that has to construe an Act of a legislature, or indeed any other document, has to determine the intention as expressed by the words used. And in order to understand these words it is natural to inquire what is the subject-matter with respect to which they are used and the object in view". In 1953 Lord Goddard, C.J. said: "A certain amount of common sense must be applied in construing statutes. The object of the Act has to be considered. :

"Where the language of an Act is clear and explicit, we must give effect to it, whatever may be the consequences, for in that case the words of the statute speak the intention of the legislature".

(g) In Principles of Statutory Interpretation by Justice G.P. Singh, at pages 33 and 34, it is stated thus.-

"When the words of a statute are clear, plain or unambiguous, i.e., they are reasonably susceptible to only one meaning, the Courts are bound to give effect to that meaning irrespective of consequences. The rule stated by Tindal, C.J. in *Sussex Peerage* case is in the following form: "If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver. The rule is also stated in another form: "When a language is plain and unambiguous and admits of only one meaning no question of construction of a statute arises, for the Act speaks for itself. The results of the construction are then not a matter of the Court, even though they may be strange or surprising, unreasonable or unjust or oppressive. "Again and again", said Viscount Simonds, L.C., "this Board has insisted that in construing enacted words we are not concerned with the policy involved or with the results, injurious or otherwise which may follow from giving effect to the language used". And said Gajendragadkar, J.: "If the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act".

10. In the case of *J.H. Gotla*, supra, the Supreme Court, at paragraph 46 on page 1708, has observed thus.-

"46. Where the plain literal interpretation of a statutory provision produces a manifestly unjust result which could never have been intended by the legislature, the Court might modify the language used by the legislature so as to achieve the intention of the legislature and produce a rational construction. The task of interpretation of a statutory provision is an attempt to discover the intention of the legislature from the language used. It is necessary to remember that language is at best an imperfect instrument for the expression of human intention. It is well to remember the warning administered by Judge Learned

Hand that one should not make a fortress out of dictionary but remember that statutes always have some purpose or object to accomplish and sympathetic and imaginative discovery is the surest guide to their meaning".

10a. In the light of the law stated above, now the question that would fall for my consideration is whether the language employed in sub-section (2)(a) of Section 180 of the Act, which provides for calling of a special meeting, is plain, clear and unambiguous or leads to any confusion or absurdity or incapable of giving effect to the said provision, if the plain language of the said provision is given effect to? In my considered view, there is absolutely no scope for taking the view that the language employed in sub-section (2)(a) of Section 180 of the Act is either ambiguous or not clear or leads to absurdity as contended by Sri Ashok Haranahalli. The language employed in sub-section (2)(a) of Section 180 of the Act is plain, clear and capable of only one construction and meaning. It states that the Adhyaksha is required to convene a special meeting on the written request of not less than one-third of the total number of members within 15 days from the receipt of such a request; and if the Adhyaksha fails to call for a special meeting as desired by one-third of the total number of members, the Upadhyaksha or one-third of the total number of elected members of the Zilla Panchayat may call for a special meeting for a day not more than 15 days after making a request with the Chief Executive Officer; and if such a request is made by one-third members of the Zilla Panchayat, the Chief Executive Officer is required to convene a meeting. It is no doubt true as contended by the learned Counsel for the contesting respondents that it is amongst the elected members of the Panchayat, the Adhyaksha and Upadhyaksha are elected and it is also true that the right to remove Adhyaksha or Upadhyaksha for want of confidence is given to the elected members of the Panchayat. However, Section 159 of the Act, which provides for constitution of Zilla Panchayat, provides that every Zilla Panchayat shall consist of (i) the elected members as determined u/s 160; (ii) the members of the House of People and the members of the State Legislative Assembly representing a part or whole of the district whose constituencies lie within the district; (iii) the members of the Council of State and the members of the State Legislative Council who are registered as electors within the district; and (iv) the Adhyakshas of Taluk Panchayats in the district. Therefore, insofar as the constitution of Zilla Panchayat is concerned, in addition to the elected members of the Panchayat as determined u/s 160, the members of the House of People and the members of the State Legislative Assembly representing a part or whole of the district whose constituencies lie within the district, the members of the Council of State and the members of the State Legislative Council, who are registered as electors within the district and the Adhyakshas of Taluk Panchayats in the district also constitute members of the Zilla Panchayat. When the language employed in sub-section (2)(a) of Section 180 of the Act permits only one-third of the members of the Panchayat to convene a special meeting, merely because the Adhyaksha or Upadhyaksha can be removed by expressing want of confidence in them by one-third of the elected members of the Panchayat, it

would not be correct for this Court to take the view that a special meeting could be convened by one-third of the elected members of the Panchayat. If such a view is to be taken, the Court has to add the word "elected" before the words "members of the Panchayat". In my view, from the language employed in sub-section (2)(a) of Section 180 of the Act, such an addition is not permissible for the Court to do. From sub-section (2)(a) of Section 159 of the Act, it is clear that the meeting convened for the election of Adhyaksha and Upadhyaksha under subsection (1) of Section 177 or for considering a no-confidence motion under sub-section (3) of Section 179 of the Act, is also "a special meeting". Sub-section (2)(a) of Section 180 of the Act provides for the procedure for convening of a special meeting by the Chief Executive Officer in the event of the Adhyaksha of the Panchayat failing to convene such a meeting inspite of the requisition given by one-third of the members of the Panchayat. When the meeting convened to consider the no-confidence motion against the Adhyaksha or Upadhyaksha is treated as a special meeting and when sub-section (2)(a) of Section 180 of the Act imposes a limitation for convening such a meeting, the provisions contained in sub-section (2)(a) of Section 180 has to be given effect to. Therefore, I am of the view that if a literal or plain meaning is given to sub-section (2)(a) of Section 180 of the Act and on that basis, it is held that one-third of the members of the Panchayat irrespective of the position whether they are elected members of the Panchayat or not, it would not lead to any absurd results or result in any difficulty in giving effect to the provisions of a statute. I do not find anything wrong or improper in the legislature providing that a special meeting is required to be convened on the requisition given by one-third of the total members of the Panchayat. It may be that if such a meeting is convened, majority of the elected members of the Panchayat can pass a no-confidence motion against the Adhyaksha or Upadhyaksha of the Panchayat. This matter also has to be appreciated from another point of view and in the interest of the Panchayat. The power conferred under the statute to remove Adhyaksha or Upadhyaksha is one thing. The power to consider no-confidence motion against Adhyaksha or Upadhyaksha is another thing. In a given case, if one-third of the members of the Panchayat, even if they are not elected members of the Panchayat, are of the opinion that no-confidence motion is required to be considered by the elected members of the Panchayat, such a power cannot be denied to them when there is no prohibition provided under the statute by reading into the provision that one-third of the members who can convene the meeting, must be understood as elected members of the Panchayat. If the interpretation placed by learned Counsel for the contesting respondents is accepted, it would be only the elected members of the Panchayat who can convene a meeting to consider no-confidence motion against the Adhyaksha or Upadhyaksha. In my view, it is not possible to take the view that it is only one-third of the elected members of the Panchayat who can convene a meeting to consider the no-confidence motion against the Adhyaksha or Upadhyaksha. Further, as pointed out by Sri Acharya, the legislature, at every place in the Act, has noticed the distinction between the elected members of the Panchayat and the members of the Panchayat. Under

these circumstances, it is not permissible for this Court in the guise of reading into either the policy decision of the legislature or on the basis of the assumed confusion in the statute to take a view that one-third of the members of the Zilla Panchayat stated in sub-section (2)(a) of Section 180 of the Act must be understood as one-third of the elected members of the Panchayat. If such an interpretation is placed, in my view, it would be re-writing the provision and it is not the province of the Court to do so.

11. In the light of the discussion made above, I am of the view that since no notice was issued by one-third of the total members of the Panchayat calling upon the petitioner to convene a meeting to consider the resolution moved by them for want of confidence, it cannot be said that the petitioner has committed default in convening the meeting, which alone authorises the second respondent to convene a meeting to consider the resolution moved for no-confidence, if again one-third of the total number of members of the Panchayat make such a request for convening the meeting. As noticed by me earlier, admittedly, even the second notice issued to the second respondent requesting him to convene the meeting, does not satisfy the minimum requirement of one- third of the members of the Panchayat.

12. In the light of the discussion made above, impugned notice Annexure-C dated 15th of December, 1998 issued by the second respondent convening the meeting to consider the resolution moved for expressing no- confidence against the petitioner is liable to be quashed and it is accordingly quashed.

13. In terms stated above, this petition is allowed and disposed of. Rule is issued and made absolute.

14. Sri S. Mahesh, learned Additional Government Advocate, is permitted to file his memo of appearance within four weeks from today.