

(1985) 08 GUJ CK 0017
In the Gujarat High Court

Liladhar Khodaji Vaghela

APPELLANT

Vs

Dipankor Basu, Development Commissioner and Others

RESPONDENT

Date of Decision : 20-08-1985

Acts Referred:

Gujarat Panchayats Act, 1961 — Section 15(5)(iii), 67(6), 67(6)

Citation : (1986) 1 GLR 226

Hon'ble Judges : P.R. Gokulakrishnan, C.J;S.B. Majmudar, J

Bench : Division Bench

Judgement

P.R. Gokulakrishnan, C.J.—The petitioner before us has filed the abovesaid Special Civil Application to revoke the order passed by the first respondent therein on 10th October 1984 on the application preferred by the respondent No. 4 u/s 67(6) of the Gujarat Panchayats Act, 1961. Various other reliefs have been prayed for in this Special Civil Application. It is (not-sic.) necessary for us to quote all these prayers except stating few facts for the purpose of disposing of this petition.

2. The petitioner contested the election to the Banaskantha District Panchayat and was elected as the President in the meeting held on 9th October 1984. This election was challenged by the other Members before the Development Commissioner. This is by virtue of the provision u/s 67(6) of the Gujarat Panchayats Act the Development Commissioner granted injunction against the petitioner herein and hence the petitioner has come forward with the above said Special Civil Application. This Court has stayed the order of the Development Commissioner with the result the petitioner continued to act as the President of the Banaskantha District Panchayat. This order was made by the High Court on 6th November 1984.

3. It is now stated before this Court by Mr. Nanavaty, the learned counsel appearing for the petitioner, that the petitioner got elected as the Member of the Legislative Assembly in the election held in 1985. Once the member is elected as the Member of the Legislative Assembly, he becomes associate member of the

District Panchayat by virtue of Section 15(5)(iii) of the Gujarat Panchayats Act. Section 15(2) states that a District Panchayat shall have a President and a Vice-President elected by its elected Members from amongst themselves. Since the petitioner has become associate member of the Panchayat he ceased to be the elected Member of the Panchayat and as such, he cannot be entitled to be elected as a President or Vice-President of the Panchayat. This petitioner in spite of the fact that he was elected as the Member of the Legislative Assembly wanted to continue as the President and as such filed Special Civil Application before this Court for getting an order from the Court in order to continue as the President of the Panchayat.

This Court by judgment in the case of Liladharbhai Khodaji v. S. Jagdishchm, D.D.O. Banaskantha and Ors. reported in 1985 Gujarati Law Herald 691, has definitely held that elected President of the District Panchayat elected as Member of the Legislative Assembly ceased to be elected Member of the Panchayat, that he is only an associate member and that as such he cannot continue as President. Hence it is clear by the judgment of this Court that the petitioner cannot continue as the President of the Banaskantha District Panchayat. Even apart from this decision, the provisions of the Gujarat Panchayats Act amply make it clear that the associate member cannot be President Vice-President of the Panchayat concerned. For all these reasons we are of the view that the prayer of the petitioner cannot be sustained both by virtue of the decision cited above and also by virtue of the provisions contained in Gujarat Panchayats Act.

4. We find from the above facts that the petition itself has become infructuous and hence this Special Civil Application is dismissed. Rule discharged. No costs.