

(1998) 01 AHC CK 0013

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 668 of 1998

Mahimanand Negi

APPELLANT

Vs

District Panchayat Raj Officer and Others

RESPONDENT

Date of Decision : 21-01-1998

Acts Referred:

Constitution of India, 1950 — Article 226, 243C(4)
Uttar Pradesh Panchayat Raj Act, 1947 — Section 12(6), 14

Citation : (1998) 2 UPLBEC 916

Hon'ble Judges : S.R. Singh, J

Bench : Single Bench

Advocate : J.P. Gupta, for the Appellant;

Judgement

S.R. Singh, J.—Heard Sri J.P. Gupta appearing for the petitioner and the learned Standing Counsel appearing for the State Authorities.

2. The petition is directed against notice dated 26.12.97 whereby the District Panchayat Raj Officer, Uttar Kashi convened a meeting of the Gram Panchayat Matari Vikas Khand Naugaon for consideration on the motion of no-confidence brought against the petitioner u/s 14 of the U.P. Panchayat Raj Act. the thrust of the submission made by Sri Gupta is that the written notice of Intention to move motion of no-confidence against the petitioner was not signed by the members of the Gram Panchayat. It is urged by the learned Counsel of the petitioner that since the written notice of intention to move no-confidence was not signed by the members of the Gram Panchayat the District Panchayat Raj Officer had no Jurisdiction to convene the meeting. The meeting, it is stated, has already taken place on 19th January, 1998 but the result has not yet been declared.

3. Having heard the learned Counsel for the parties and having regard to the Full Bench decision of this Court in Mathura Prasad Tiwari v. Asstt. District Panchayat Raj Officer, Faizabad and Anr. 1996 ALJ 612, I am of the considered view that since the meeting has already taken place, it would be an exercise in futility to go into the question as to whether or not the written notice of intention was

signed by the members of the Gram Panchayat.

4. The learned Counsel for the petitioner then urged that the petitioner was kept at bay and was not allowed to cast his vote. It is urged by the learned Counsel for the petitioner that by virtue of Section 12 (6) of the U.P. Panchayat Raj Act, 1947, a Pradhan shall be deemed to be a member of the Gram Panchayat and by virtue of Article 243-C(4) of the Constitution of India, the Pradhan is entitled to cast his vote at any meeting of the Gram Panchayat including a meeting convened for the purposes of discussion on the motion of no-confidence u/s 14 of the UP, Panchayat Raj Act, 1947 in the absence of any statutory prohibition. In fact, urged the learned Counsel, the constitutional provisions contained in Article 243-C(4) will prevail and the Legislature cannot even make any express provision prohibiting the Pradhan from exercising his right to cast vote at any meeting of the Gram Panchayat Including a meeting for discussion on the motion of no-confidence u/s 14 of the Act. Since the result has not yet been declared, I am of the view that the ends of justice should be best attained if the petition be dismissed with the direction that in case the petitioner prefers a representation, the Distt. Panchayat Raj Officer shall look into the matter and take appropriate decision having regard to the fact whether or not, the petitioner was allowed to cast his vote at the meeting convened for discussion on the motion of no-confidence. In case, it is found that the petitioner was not allowed to cast his vote, though he was present at the meeting, in that event the Distt. Panchayat Raj Officer shall declare the result keeping in view the decision of this Court in Civil Misc. Writ Petition No. 40873 of 1997, Smt. Meera Devi v. State of U.P. and Ors., decided on 7th January, 1998.

5. In the conspectus of the above discussion, the petition is disposed of finally. Let a copy of this order be supplied to the Counsel for the petitioner within 24 hours on payment of usual charges.