

(1957) 12 MP CK 0002

In the Madhya Pradesh High Court

Case No : Letters Patent Appeal No. 58 of 1957

Municipal Committee and Another

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 04-12-1957

Acts Referred:

Central Provinces and Berar Municipalities Act, 1922 — Section 57, 57(2), 57(5)
Constitution of India, 1950 — Article 226

Citation : AIR 1958 MP 323

Hon'ble Judges : M. Hidayatullah, C.J.; B.K. Choudhary, J.; B.K. Chaturvedi, J

Bench : Full Bench

Advocate : A.P. Sen, for the Appellant; M.P. Srivastava, for the Respondent

Final Decision : Allowed

Judgement

M. Hidayatullah, C.J. and B.K. Choudhuri, J.

11. This is a Letters Patent Appeal from an order of Bhutt, J. in Miscellaneous Petition No. 552 of 1956, decided on 21st February, 1957.

12. The State Government declared the area under the Notified Area Committee, Kareli to be a municipality in the year 1948 under Sub-section (2) of Section 5 of the Central Provinces and Berar Municipalities Act, 1922 (hereinafter referred to as the Act). Subsequently the Municipal Committee, Kareli was dissolved by the State Government under Sub-section (1) of Section 57 of the Act by an order dated 24th June, 1950.

Thereafter, a fresh election of the members and president of the Municipal Committee was held in 1953, and a new Committee was constituted. On 3rd September, 1956 the State Government served a notice on the Committee framing certain charges against it and asking it to show cause why it should not be superseded. The president of the Committee, Shri Mahendra Singh Kiledar, sent a detailed reply explaining the charges. However, by an order, dated 30th October, 1956. the State Government superseded the Municipal Committee for a

period of two years.

13. The present petition was filed by the Municipal Committee through its president for getting the aforesaid order quashed. As the learned, Single Judge declined to interfere, the petitioner filed this Letters Patent Appeal, The learned single Judge in declining to interfere followed the decision of a Division Bench of the Nagpur High Court in Misc. Petn. No. 80 of 1950, D/- 10-8-1951(A). That decision was given when on an earlier occasions also the Municipal Committee, Kareli was superseded.

The learned single Judge had taken a contrary view in Deepchand Jain v. The State of M. P. Misc. Petn. No. 276 of 1955, D/- 27-12-1955 (D). In doing so he had relied upon the decision in 1951 AC 66 (B). That was a petition filed by two members of the Municipal Committee, Raipur, impugning the action taken by the State Government against them under Clause (b) of Sub-section (3) of Section 22 of the Act.

14. The statement of the law by the Division Bench in AIR 1954 Madh B 161 (C) (supra), was questioned before us, and the matter was referred to a Full Bench. The Full Bench observed :

"The Central Provinces and Berar Municipalities Act, 1922 requires that supersession of a Municipal Committee may be done when one or more of the conditions laid down in Sub-section (2) of Section 57 of the Act are found to exist. The reasons must have relation to those conditions and must be sufficient for the exercise of the power conferred on the Government.

The Court will not examine the reasons as in an appeal, but will certainly examine them with advertence to their reasonableness and sufficiency for the legitimate exercise of the power granted to the Government. Whenever action has to be reasonable and the reasons for the action to be recorded, the test is not entirely subjective unless the law says that it should be so: see Nakkuda Ali v. M. F. De, S. jayaratne (B) (supra).

The learned counsel for the Municipal Committee cited (C), but that case also goes too far, on the other side. Vishvanath Vasudeo and another Vs. The State of Madhya Bharat, We do not agree with all that has been said in the Madhya Bharat case. The issue of supersession is, of course, not to be tried as a law suit with a right of appeal to the High Court. At the same time, the action of the Government has to be reasonable and the reasons for the action have to be stated, and the exercise of power can be examined to see whether in the circumstances under which it has been exercised the necessary power under the Act flows to the Government." * * * *

"We think that the fact that a reasonable opportunity to show cause has been made a condition precedent to the exercise of the power and that reasons for the supersession have to be notified to the electorate shows that there is not to be a subjective appraisal but that the reasons must be sufficient under the Act and an

objective test is indicated. The requirements of the law are not satisfied by accepting insufficient or inadequate reasons for supersession. We think that the Courts are at liberty to examine the reasons for this limited purpose in addition to the purposes which the learned Judges of the earlier Division Bench (Mangalmurti and Mudholkar, JJ.) have already indicated in their order."

15. The State Government had framed as many as twelve charges against the Municipal Committee (Annexure A-I (a)). The Committee submitted a detailed explanation, giving facts and figures refuting the charges. The State Government appears to have accepted the report of the Sub-Divisional Officer dated 9th October, 1956. We have perused the explanation of the Municipal Committee as well as the report of the Sub-Divisional Officer.

The report of the Sub-Divisional Officer is incomplete and vague. It is abundantly clear that the State Government did not verify the detailed explanation submitted by the Municipal Committee in respect of each and every charge. Indeed, every charge stood completely explained and the basis was the orders of Government and its officers.

The report of the Sub-Divisional Officer was not only vague but did not take into account the documents emanating from Government and its officers. There was a subjective approach to the problem in excels is. In the light of the observations made by the Full Bench, we think that the action of the State Government in superseding the Municipal Committee without properly verifying the detailed explanation given by it "was not reasonable. Under these circumstances we quash the order of the State Government dated 30th October, 1956.

16. The appeal is allowed, but we make no order about costs.