
(1958) 01 MP CK 0014
In the Madhya Pradesh High Court
Case No : L.P. A. No. 58 of 1957

Municipal Committee, Kareli and Another	APPELLANT
Vs	
State of M.P.	RESPONDENT

Date of Decision : 06-01-1958

Acts Referred:

Central Provinces and Berar Municipalities Act, 1922 — Section 57(1)

Citation : (1958) MPLJ 531

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

Bench : Full Bench

Advocate : A.P. Sen, for the Appellant; M. Adhikari and H.L. Khaskalam, for the Respondent

Final Decision : Allowed

Judgement

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

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served a notice on the Committee framing certain charges against it and asking it to show cause why it should not be superseded.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 However, by an order, dated 30th October 1956, the State Government superseded the Municipal Committee for a period of two years.

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 *Ramchandra Rai v. State of M.P.* M.P. No. 80 of 1950 decided on 10th Aug. 1951 (1951 N L J 182). That decision was given when on an earlier occasion also the Municipal Committee, Kareli was superseded. The learned single Judge had taken a contrary view in *Deepchand Jain and Anr. v. The State of M.P.* and another M.P. No. 276 of 1955 decided on 27th Dec. 1955 (1956 NLJ 218.). In doing so he had relied upon the decision in *Nakkuda Ali v. M.F. De S. Jayaratna* 1951 A C 66. 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.

The statement of the law by the Division Bench in *Ramchandra Rai v. State of M.P.* No. 80 of 1950 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. Jayaratna* 1951 AC 66. The Learned Counsel for the Municipal Committee cited *Vishvanath v. The State of Madhya Bharat* AIR 1954 MB 161, but that case also goes too far on the other side. We do not agree with all that has been said in the *Madhya Bharat* Case. The issue of super session 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 super session 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 super session. 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.

The State Government had framed as many as twelve charges against the Municipal Committee Annexure A-1 (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 excess. 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.

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