
(1967) 04 MAD CK 0001
In the Madras High Court

Muthukumaran

APPELLANT

Vs

The Inspector of Panchayats and Others

RESPONDENT

Date of Decision : 11-04-1967

Acts Referred:

Tamil Nadu Panchayats Act, 1958 — Section 28

Citation : (1967) 80 LW 672 : (1967) 2 MLJ 264

Hon'ble Judges : P.S. Kailasam, J

Bench : Single Bench

Judgement

P.S. Kailasam, J.—This petition is filed by the President of the Manangorai Panchayat for the issue of a writ of certiorari calling for the

records of the resolution dated 14th June, 1966 of the Manangorai Panchayat and to quash the same.

2. The members of the Panchayat gave notice of a motion of no-confidence against the petitioner and the Tahsildar of Thanjavur issued notice to

the petitioner of the meeting on 23rd May, 1966 for considering the motion of no-confidence. The meeting was subsequently adjourned to 31st

May, 1966 as a woman member, who was co-opted to the Panchayat gave a memo. stating that she has filed an O.P, u/s 28 of the Madras

Panchayats Act, 1958, and that the meeting might be adjourned. The petitioner also intimated the Tahsildar that he and his followers would not

participate in the meeting. The Tahsildar adjourned the meeting, and on 7th June, 1966 issued a fresh notice fixing the date of the meeting as 14th

June, 1966. On 14th June, 1966 at the meeting the motion of no-confidence was passed.

3. Mr. Panchapagesan, learned Counsel for the petitioner, challenged the validity of the resolution of no-confidence on three ground's. He

submitted that Section 152(10) of the Madras Panchayats Act prohibits any debate on a motion and as there was a discussion relating to the

petition filed by the woman member on 31st May, 1966 the proceeding should be held as void. Secondly, he submitted that the two of the

members were not served with notice of the meeting held on 14th June, 1966. Thirdly, he submitted that the adjournment of the meeting dated 31st

May, 1966 was contrary to the provisions of the Act and as such the meeting held on 14th June, 1966 should be held as void.

4. Regarding the first objection that there was a discussion at the meeting on 31st May, 1966 it is stated that the woman member presented a

petition and it was discussed. What is prohibited under Sub-section (10) to Section 152 of the Act is a debate on any motion under the section,

which would mean that discussion on any motion u/s 152 alone is prohibited. Discussion on other matters as on the petition presented by the

women member would not amount to a debate on a motion u/s 152. Regarding the second objection that two members were not served with

notice of the meeting on 14th June, 1966. the records of the Panchayat show that all the members were served. The third objection relates to the

adjournment of the meeting which was scheduled to take place on 31st May, 1966. Sub-section (6) to Section 152 states that if within half an hour

after the time appointed for the meeting, the Tahsildar is not present to preside at the meeting, the meeting shall stand adjourned to a time to be

appointed and notified to the members by the Tahsildar under Sub-section (7). Sub-section (7) provides that if the Tahsildar is unable to preside at

the meeting, he may, after recording his reasons in writing, adjourn the meeting to such other time as he may appoint. Sub-section (8) provides that

save as provided in Sub-sections (6) and (7), a meeting convened for the purpose of considering a motion under the section shall not for any

reason be adjourned. Reading Sub-sections (6), (7) and (8) together it is apparent that a meeting convened for considering a motion of no-

confidence can only be adjourned (1) if the Tahsildar is not present to preside at the meeting within half an hour after the time appointed for the

meeting and when (2) the Tahsildar is unable to preside at the meeting. In no other case should a meeting for consideration of a motion u/s 152 be

adjourned. The adjournment is, therefore, clearly in contravention of Sub-sections (6), (7) and (8). But the question is whether the contravention

would have the effect of nullifying the notice of motion of want of confidence. I do not think that this consequence should follow. The provisions of the three sub-sections are intended to avoid the adjournment of the meeting. If in fact there had been an adjournment, though it was not in accordance with the provisions of the sub-sections, the result will not be to nullify the resolution passed by the members. The procedure laid down in Sub-sections (6), (7) and (8) should be taken as directory and not mandatory. An adjourned meeting cannot be treated as void. Section 152 lays down the procedure regarding the passing of a motion expressing want of confidence in the president. The members of the Panchayat have a right to express their want of confidence in the President according to the section. Merely because the meeting had been adjourned for some cause other than that mentioned in the sub-sections, the resolution cannot be said to have become void and inoperative. The sub-sections should be construed as merely directory in nature.

5. In the result, I hold that the resolution has been validly passed and reject the contentions of the learned Counsel for the petitioner. The Writ petition is dismissed. There will be no order as to costs.