

(1990) 03 KAR CK 0038
In the Karnataka High Court
Case No : W.P. No. 1270/1988

Nanje Gowda

APPELLANT

Vs

Mandal Panchayat, Heeresave and Others

RESPONDENT

Date of Decision : 08-03-1990

Acts Referred:

Citation : (1990) 1 KarLJ 388

Hon'ble Judges : H. G. Balakrishna, J

Judgement

Balakrishna, J.-The short point for consideration is whether the impugned order of the 1st respondent under Annexure-A as well as the order passed by the 2nd respondent under Annexure-B deserve to be quashed.

2. A complaint was given by the 3rd respondent against the petitioner that the petitioner had set up a fence on what is described as Cramatana land and thereby caused obstruction to passage. Based on the complaint, a spot inspection was conducted inviting the petitioner for the purpose of inspecting the area where the act alleged had taken place. After the spot inspection, an order came to be passed by the Mandal Panchayat against the petitioner. The petitioner preferred an appeal before the Chief Secretary against the order of the Mandal Panchayat. The appeal was dismissed. Hence, the petitioner is aggrieved.

3. I heard the arguments of the learned Counsel for the parties. Annexures filed by the both the learned Counsel for the petitioner and respondent show that there is no material as to whether a notice was issued to the petitioner before the Mandal Panchayat passed the impugned under Annexure-A. Though Annexure-A is described as a show cause notice it is nothing but an order attended by material consequences affecting the petitioner. Secondly, there is no material on record to show that a copy of the complaint was furnished to the petitioner. In these circumstances, it is not possible to believe that the petitioner had reasonable opportunity of hearing. Mere holding of a spot inspection is not a substitute for a fair and just hearing. Atleast, after the spot inspection had been completed the petitioner should have been heard by the Mandal Panchayat

before proceeding to pass the order. Mandal Panchayat is believed to be taking care of the administration of a village republic and the sole object is self Government and self administration. When the Mandal Panchayat acts in the purported exercise of its power under the Act it is deemed to be acting as a quasi judicial authority. Acting as a quasi judicial authority, it is imperative that a Mandal Panchayat adheres to the principles of natural justice which constitute inseparable part of rule of law. Unless there is a notice, affording or furnishing a copy of the complaint and a reasonable opportunity of hearing it cannot be said that the quasi judicial authority has resorted to fair administrative procedure. In applying the said principle to the facts of the instant case, I am of the opinion that there is an infraction of the basic requirement of justice delivery system. Denial of opportunity of hearing amounts to violation of principles of natural justice.

4. For the above reasons, it is not possible to sustain the order of the appellate authority which is the second respondent herein and also the order of the 1st respondent which was confirmed by the second respondent. Hence, the impugned orders are hereby quashed allowing the writ petition.

Writ petition allowed.