

(1989) 09 KAR CK 0029
In the Karnataka High Court
Case No : W.P. No. 12518-519/1989

Narayana Beer Naik and Another

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 01-09-1989

Acts Referred:

Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayats Act, 1983 — Section 47

Citation : (1989) 3 KarLJ 30

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-These petitions are filed by the Pradhan and Upa Pradhan of Balakur Mandal Panchayat challenging the legality and correctness of the notice issued by the Assistant Commissioner as At Annexure-B, inter alia, on the ground that the notice does not conform to the provisions of law contained in sub-section (3) of Section 47 of the Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayats Act, 1983 (hereinafter referred to as the Act); in that the notice should have been given individually to each of the members seeking to move the "No Confidence Motion" in terms of sub-section (2) of Section 47 of the Act and further, two of the signatories to the requisition as at Annexure-A were members who had ceased to be members of the Mandal Panchayat and therefore, the notice was invalid. The Assistant Commissioner acquired no jurisdiction to issue notice calling for a meeting to consider the "No Confidence Motion". One more ground was feebly urged and that was, the requisition notice as at Annexure-A did not conform to the prescribed form.

2. The Court in previous cases has taken the view that requirement of 15 clear days notice is only directory and not mandatory and notice giving lesser period to convene the meeting would not be prejudicial or fatal to the proceedings. Reliance was placed upon the decision of the Supreme Court in K. Narasimhiah v H.C. Singri Gowda and Others (A.I.R. 1966 S.C. 330). Therefore, the first contention which is no longer rest integral, and is covered by the decision of the

Supreme Court. That ground, therefore, must be rejected.

3. There is nothing in Section 47(2) of the Act, which requires the members of the Mandal Panchayat to submit a motion of no confidence in the Pradhan or Upa Pradhan or both individually. The requirement is that more than half of them should move such a motion and at least two of them had to present such requisition notice in person to the Assistant Commissioner and nothing more. Therefore, the ground that individual notices should have been issued by the members must also fail.

4. The third contention that two of the members had ceased to be members of the Mandal Panchayat also does not appear to be well-founded. Assuming, but not conceding that though they have ceased to be the members, 11 out of 16, the total strength of the members, even if two are omitted, constitute 9 and that is more than half the members and therefore, the notice on that ground is in compliance with the requirement of sub-section (2) of Section 47 and does not call for interference.

5. The last contention that the notice of the requisition does not conform in the prescribed form also should not detain me long. A form is prescribed. But having regard to the extent of illiteracy in the rural areas of the State, strict compliance with the form shall not be insisted. Even pleadings assisted by Counsel in Courts are liberally construed and a very wide latitude is given. As long as the Assistant Commissioner was made known the intention of more than half of the members in regard to the confidence or lack of it in the Pradhan or Upa Pradhan is substantial compliance with the prescribed form.

6. Therefore, Annexure-A does not suffer from any of the defects which the petitioners seek to make out in these petitions. Petitions are dismissed.

7. In the light of the above, the I.As. do not survive for consideration.