
(2008) 03 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No.14521 of 2005

Narinderjit Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 19-03-2008

Acts Referred:

Citation : (2008) 3 LLR 548 : (2008) 3 RCR(Civil) 956

Hon'ble Judges : Permod Kohli, J

Advocate : Mr. Arun Bansal, Advocate. Ms. Monica Chhibber Sharma, DAG, Punjab and Mr. Dhiraj Jain, Advocate., Advocates for appearing Parties

Judgement

Permod Kohli, J (Oral)

1. This order will dispose of CWP Nos.14521 and 18325 of 2005 as the law and facts involved in these petitions are similar.

2. These are two writ petitions filed by Narinderjit Kaur Chairman, Panchayat Samiti, Maur. In CWP No.14521 of 2005, notice dated 7.9.2005

has been assailed with a further prayer to stay further proceedings pursuant to the aforesaid notice. In the second petition i.e. CWP No.18325 of

2005, validity of the resolution dated 14.9.2005 is in question.

3. Briefly stated the facts as emerge from the pleadings of the parties are that the petitioner was elected as the Chairman of the Panchayat Samiti,

Maur. Some of the members of the Panchayat Samiti moved a requisition for calling meeting for considering ½ No Confidence Motion ½ against

the petitioner. The requisition was presented to the Deputy Commissioner, Bathinda who deputed Sub Divisional Magistrate, Talwandi Sabo,

District Bhatinda (respondent no.5) vide his letter dated 16.8.2005 for convening the meeting. Respondent no.5 accordingly issued Memo No.501

dated 22.8.2005 calling the meeting of the Panchayat Samiti, Maur for considering the requisition of the members of the Panchayat Samiti for No

Confidence Motion against the petitioner. The meeting was proposed to be held on 6.9.2005. It is admitted case of the parties that on the date so

fixed, no meeting was held and it was postponed to 14.9.2005.

4. In the written statement filed by respondents no. 1, 2, 4 to 6. it is stated that the notices for the said meeting were issued. Though there is no

averment in the written statement that notice was served upon the petitioner. However, in CWP No.14521 of 2005, the petitioner himself has

challenged the notice dated 7.9.2005 which was issued for convening meeting on 14.9.2005. Copy of the notice has also been placed on record

as Annexure P5. This writ petition was filed on 9.9.2005. This clearly indicates that the petitioner had the notice and knowledge of the proposed

meeting scheduled to be held on 14.9.2005. On 14.9.2005, the members of the Panchayat Samiti adopted resolution removing the petitioner and

Sh. Karnail Singh, from the posts of Chairman and Vice Chairman, respectively, of the Panchayat Samiti, Maur. Out of 15 members, as many as

12 members were present in the said meeting. Meaning thereby that the resolution was adopted by majority of the members of the Panchayat

Samiti. After the removal of the petitioner and Kamail Singh, Vice chairman the Panchayat Samiti elected Sh.Anita Kaur, respondent no.9 as the

Chairman of the Panchayat Samiti in place of petitioner and Kamail Singh was reelected as the Vice Chairman in the meeting of the Panchayat

Samiti held on 23.11.2005.

5. Mr. Arun Bansal, learned counsel appearing for the petitioner has raised only one argument challenging the action of the respondents and the

resolution dated 14.9.2005 on the ground that the petitioner was removed in gross violation of the provisions of Section 112 of the Punjab

Panchayati Raj Act, 1994. The said Section reads as under:

112. Resignation or removal of Chairman and ViceChairman of Panchayat Samiti

(1) The Chairman or Vice Chairman of the Panchayat Samiti may resign his office at any time by writing under his hand addressed to the State

Government and his office shall become vacant on the expiry of fifteen days from the date of such resignation unless within said period of fifteen

days he withdraws such resignation by writing, under his hand addressed to the State Government.

(2) Every Chairman or Vice Chairman of a Panchayati Samiti shall be deemed to have vacated his office forthwith if a resolution expressing want

of confidence in him is passed by a twothird majority of the total number of elected members of the Panchayat Samiti at a meeting specially

convened for the purpose.

(3) The requisition for a special meeting under sub section (2) shall be signed by not less than onefifth of the total number of elected members of

the Panchayat Samiti and shall be delivered to the Deputy Commissioner and the Deputy Commissioner shall within seven days from the date of

such requisition himself convene a special meeting of the Panchayat Samiti or authorize an officer not below the rank of Extra Assistant

Commissioner to convene such a meeting.

(4) The special meeting under this section shall be held on a day not later than fifteen days from the date of issue of the notice of the meeting and

shall be presided over by the Deputy Commissioner or an Officer authorized by him under sub section (3) and if the motion is carried out against

the Chairman or ViceChairman, he shall cease to hold office of the Chairman and ViceChairman, as the case may be:

Provided that no such requisition under this section shall be made unless a period of two years has elapsed from the date on which the Chairman,

or Vice Chairman, as the case may be, resume his office:

Provided further that if the motion of no confidence against the Chairman and the ViceChairman is rejected, no fresh motion of no confidence

against the Chairman or Vice Chairman or both, as the case may be, shall be brought before the Panchayati Samiti within a period of two years

from the date of rejection of such motion. 1/2

6. Under sub section (3) of the aforesaid Section 112, 1/5th of the total number electedmembers of the Panchayat Samiti are entitled to move

requisition for convening a special meeting for moving no confidence motion. The Deputy Commissioner has been empowered to convene such a

meeting himself within seven days from the date of receipt of requisition or authorize any Officer not below the rank of Extra Assistant

Commissioner in this regard. It is not in dispute that respondent no.5 has been

duly authorized by Deputy Commissioner, Bhatinda to convene the meeting. The meeting was proposed to be held on 6.9.2005 pursuant to the notice dated 27.8.2005. However, no such meeting was held on the said day. In the notice dated 7.9.2005, it is indicated that due to peace and law, the meeting could not be held on 6.9.2005 and is postponed to 14.9.2005 at 11.00 a.m. Under sub section (4) of Section 112, a special meeting is required to be convened not later than 15 days from the date of issue of the notice of the meeting. The proposed meeting scheduled to be held on 6.9.2005 is within 15 days from the date of issue of notice of the meeting i.e. 22.8.2005. Admittedly, no meeting was held on that date and the same was postponed to 14.9.2005. The contention raised on behalf of the petitioner is that since the meeting was adjourned beyond 15 days and in view of the period specified under sub section (4), any meeting held later than 15 days is illegal and invalid and thus consequently, resolution dated 14.9.2005 is also invalid and void ab initio having been passed beyond 15 days and in gross contravention of sub section (4) of Section 112.

7. The argument raised on behalf of the respondents is that for the adjourned meeting dated 14.9.2005, a fresh communication was issued on 7.9.2005 and the special meeting was held within 15 days from the date of issue of the second communication. This fact is not disputed even by the petitioner. Communication dated 7.9.2005 was/is in the notice of the petitioner who has challenged the same within two days of its issue when CWP No.14521 of 2005 was filed. Therefore, the meeting held on 14.9.2005 resolving to remove the petitioner by 2/3 majority was definitely held within 15 days from the issue of the second notice.

8. Mr. Bansal, learned counsel for the petitioner submits that second meeting is impermissible in law and reliance is placed upon sub section (4) of Section 112. Sub section (4) only provides for holding special meeting within 15 days from the date of issue of notice. Mr. Bansal has relied upon a Division Bench judgment of this Court passed in the case of Harbans Lal vs. Director Gram Panchayats and Development Punjab and Another, 1981 P.L.J. 538. Neither in sub section (4) of Section 112 or under any of the provisions of the Act, there is any prohibition for convening a second meeting within 15 days with fresh notice. The second meeting held on

14.9.2005 was within 15 days from the date of second notice dated

7.9.2005. This meets the requirements of sub section (4) of Section 112. The petitioner was removed by 2/3rd majority of the elected members of

the Panchayat Samiti in consonance with sub section (2) of Section 112. There is no impropriety or infirmity in holding the meeting. Apart from the

above, the petitioner is also not entitled to any relief for the simple reason that she has not challenged the subsequent election of respondent no.9

and Karnail Singh as Chairman and Vice Chairman, respectively held on 23.11.2005. In CWP No.18325 of 2005, only resolution dated

14.9.2005 has been challenged.

9. Mr. Bansal has also relied upon a Division Bench judgment of this Court passed in the case of Harbans Lal vs. Director Gram Panchayats and

Development Punjab and Another, 1981 P.L.J. 538 wherein following observations are made:

“The Block Development and Panchayat Officer directed for holding the meeting of the Gram Panchayat to consider the noconfidence

motion for 5th November, 1980, which is clearly beyond 15 days. According to subsection (4) of Section 9 of the Punjab Gram Panchayat Act,

1952, the Block Development and Panchayat Officer has to fix the meeting within a period of 15 days on the receipt of such an application. As the

date of the fixation of the meeting was beyond 15 days, violating the language of the mandatory provision of the Act, therefore, the entire action

requires quashing.”

There is no dispute with the observations made in the above said judgment. Once notice is issued for a particular meeting, it has to be held within

15 days, but that does not prevent the authority from convening a second meeting with fresh notice.

In view of the above, I find no merit in these writ petitions which are accordingly dismissed. No costs.

Copy of this order be placed on record in each concerned file.