
(1984) 09 AP CK 0005

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12862 of 1984

O. Sudhakar

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 27-09-1984

Acts Referred:

Andhra Pradesh Municipalities Act, 1965 — Section 46, 46(9)

Citation : AIR 1986 AP 188

Hon'ble Judges : P. Chennakesav Reddy, Acting C.J.; Rama Rao, J

Bench : Division Bench

Advocate : Y. Sivarama Sastry, for Y. Venkat Sastry, for the Appellant;
Government Pleader, for H and ME and A. Panduranga Rao, for the Respondent

Judgement

Rama Rao, J.—This petition is for issuance of a writ to quash the publication of the results of the meeting of the Municipal Councillor. Nalgonda held on 18-8-1984. The assential a averments in the affidavit in support of the writ petition may be stated.

2. The petitioner was unanimously elected as the Chairman of the Municipality of Nalgonda in July, 1983. On 31-7-1984 some of the councillors sent a written notice of intention to move no-confidence motion in the Chairman and pursuant to the said requisition the meeting was fixed on 18-8-1984. When the move for no-confidence motion was initiated two of the councillors viz. Mirza Ahmed Baig and Oruganti Ramulu were under detention under the National Security Act. In the meeting the petitioner filed an objection that the said two councillors could not be permitted to vote in the meeting. Thereupon the petitioner was informed by the Revenue divisional officer who was presiding over the meeting that this Court permitted the said two councillors to sent their preference through the Superintendent of jail. In spite of the objection raised by the petitioner that S. 46 of the A.P. Municipalities Act does not contemplate such procedure the Revenue Divisional Officer permitted the said votes and published the results stating that the motion of no-confidence was carried. To appreciate the controversy in this

writ petition it is necessary to give a brief resume of the events culminating in this writ petition. The majority of the Municipal Councillors presented a written application before the Revenue Divisional Officer, Nalgonda, stating that they have lost confidence in the Municipal Chairman viz. Sri Borra Sudhakar in view of several lapses stated in the said application. Pursuant to such requisition that meeting for no-confidence motion was convened on 18-8-1984. At the meeting the petitioner raised objection to receive the opinion of Sri M.A. Baig and Sri Oruganti Ramulu who were detained under the National Security Act. It is stated that the passing of no-confidence motion should be done at a meeting of the councillors as no vote of the absentee councillors can be exercised. It was also alleged that the signature of the motion of no-confidence was obtained by way of forgery. This objection was overruled in view of the order of this Court in W.P.M.P. Nos. 16021 and 16022 of 1984. M.A. Baig and Oruganti Sri Ramulu who were detained under the National Security Act moved petitions being W.P.M.Ps. 16021 and 16022 of 1984 in W.P.Nos. 12291 and 12292 of 1984 for their release to enable them to attend Municipal Councillors meeting at Nalgonda on 18-8-1984 pending the disposal of the writ petitions. This move was resisted by the Government stating that either a temporary release or taking them with police escort to Nalgonda for the purpose of meeting for no-confidence motion would lead to further crisis of law and order situation in the town. Taking into consideration these aspects the Division Bench of this Court passed an order on 17-8-1984 as follows:-

"Under these circumstances the Superintendent Central Jail, Warangal is directed to obtain from the petitioners, observing secrecy, their individual option in writing regarding the no-confidence motion against the Chairman and put the same in against the Chairman and put the same in separate sealed covers and send them through a special messenger to the R.D.O. Nalgonda, the presiding officer of the meeting to be held so as to reach him before 11 A.M. tomorrow i.e., 18-8-1984. The option exercised by each of the petitioners shall be treated as their participation in the meeting for no-confidence motion and the same shall be treated as an expressed "in person". The R.D.O. shall take into consideration the opinion thus expressed, for or against the no-confidence motion as the case may be, for the purpose of no-confidence motion."

In the meeting convened on 18-8-1984 for consideration of the no-confidence motion the Revenue Divisional Officer took into consideration the consent letter sent by the detenus through the Superintendent, Central Jail in favour of the no-confidence motion. It was stated that in the meeting 12 councillors voted in favour of the motion and two councillors who were under detention gave their consent letter in favour of the motion and thus 14 councillors voted in favour of the motion and 4 councillors against it and he declared that the motion was carried with the support of more than the requisite number of the elected councillors. This declaration of the Revenue Divisional Officer is impugned in this writ petition.

3. The learned counsel for the petitioner contended that S. 47 contemplates

participation in the debate as well as the voting by the councillor present in the meeting only and the order of this Court enabling the two councillors to send their preferences through Jail Superintendent did tantamount to adding to or altering the provisions of S. 46 and such procedure of voting in absentia is not visualised by S. 46(9). It is further contended that the meeting itself is invalid as the councillors being detenus are disabled to attend the meeting.

4. The learned counsel for the respondent contended that there is a substantial compliance of S. 46 and the order of this Court permitting preference through jail Superintendent eminently satisfies the requirement of opting for no-confidence motion or otherwise and in any event the procedure formulated by this Court is in the nature of supplying details to Court is in the nature of supplying details to the core necessitated by extraordinary circumstances and the question of deviating from the provisions of S. 46 does not arise.

5. Section 46 is a self contained provision postulating modalities for passing the confidence motion in Chairman or Vice-Chairman. Sub-sec. (1) provides that the no-confidence motion should be moved in accordance with the procedure formulated in S. 46, Sub-sec. (2) mandates the issuances of written notice of motion signed by the majority of the sanctioned strength of the council and personal delivery thereof by two of the councillors signing on the motion. Sub-sec.3 provides for the convening of the meeting by the Revenue Divisional Officer within thirty days from the date of delivery of such notice Sub-sec. (7) says that in the convened meeting the Revenue Divisional Officer, shall read the motion for consideration and debates. The crucial provision controlling the decision in the case is sub-sec. (9) which is as follows:

"Such debate shall automatically terminate on the expiration of two hours from the time appointed for the commencement of the meeting if it is not concluded earlier. On the conclusion of the debate or on the expiration of the said period of two hours, whichever is earlier , the motion shall be put to vote."

6. The maximum time stipulated for debate is two hours and on expiry of two hours earmarked for debate or if the debate is concluded earlier, the motion should be put to vote. Subsequent to the adherence to the procedural requirements embodied in sub-secs. (2) to (8), the essence is contained in sub-sec.(9) warranting the motion note be put to vote and this operates as final or finishing touch to no-confidence motion. The voting finally decides the outcome of the motion and thus voting constitutes the vital component of S. 46.

7. The learned counsel for the petitioner at the outset contended that in the absence of a person attending the meeting, the meeting itself is illegal and as such the proceedings in the said meeting cannot have any bearing. The reliance is made upon the decision of this Court in *Grandhi Raghurama Gupta, Markapur Vs. Revenue Divisional Officer, Markapur and Others*, , wherein twelve councillors of the Markapur Municipal Council issued a notice under S. 46(2) of the Act expressing their intention to make a motion of want of confidence in the

Chairman of the council. The meeting was convened on 25-6-1969 and the notice of the meeting was given to all the councillors. Thereafter the writ petition was filed that the meeting held on 25-6-1969 is invalid, as one of the elected councillors was adducted at the instance of the party of the Chairman and therefore the said councillor could not attend the meeting. It was held that such a meeting is invalid and it cannot be considered as a meeting in the eye of law. In the context of considering this issue, the Division Bench. Consisting of Krishna Rao and Lakshmaiah, JJ. Held as follows:-

"The notice is intended to enable the person concerned to discharge a public duty. The object of the meeting with the requirement to have the same being preceded by the issuance of a proper notice, is to enable the person entitled to participate in the deliberations of the meetings. There does not seem to be, then, any difference in point of principle between a case of there being a meeting convened without notice to a person entitled to attend the meeting and a case where such a person was found being prevented by the interested party from attending the meeting."

8. It is also further held as follows:

"The motion was defeated because fourteen councillors did not vote in favour of the motion. Sri Dodda Venkata Reddy's vote is a critical, a tilting and decisive vote. If the person as against whom no-confidence motion was sought to be brought is to be permitted to prevent the members from participating in the deliberation of the meeting, that will virtually result in allowing such a person to defeat the object of the Act. Particularly, the provisions contained in S. 46. It will be practically annihilating the very basis of democratic and representative-institutions".

9. In *S. Seetha Ramaiah Naidu Vs. Ongole Co-operative Bank Ltd. and Another*, a communication was served on the President of the co-operative Bank that he ceased to be a director of the Bank under by-law 22 on account of his having absented himself from three consecutive meetings of the Board of Directors. It was contended that the meetings said to have been held on one of the dates i.e. 14-2-1972 was not a valid meeting as there was no quorum and the meeting had to be adjourned. In the context of considering the validity of a meeting in the absence of a quorum, the Division bench consisting of Gopala Rao Ekbote. C.J. and Madhava Rao. J. Held as follows:

"That follows from the definition of the meeting as well as the principles relating to quorum is that a meeting can be said to be a meeting only when it meets for the purpose of discussing and deciding something for which the meeting is called. If that purpose cannot be achieved because of lack of the requisite minimum number of members, then it does not constitute a valid meeting. In the eye of law, therefore in order to constitute a meeting within the meaning of bye-law 22 the meeting should be validly constituted and in our opinion, the meeting cannot be said to be validly constituted unless the facts like quorum, notice, eligibility of

the persons to attend , the business to be transacted which all go to make valid constitution for a particular meeting are satisfied."

In *The Vice-chancellor, Utkal University and Others Vs. S.K. Ghosh and Others*, the ordinary meeting of the University Syndicate was called to consider certain matters. The question of the leakage of a question paper of certain questions was not in the agenda but the last item was, "other matters, if any". The members present passed a resolution unanimously that there was a leakage of question paper and the examination in that subject should be cancelled. In the meeting there was no absentee and the said absentee member was not informed that the leakage of question paper was one of the matters which would be considered at the meeting. In this context. The Supreme Court observed that "individual assents" given separately cannot be regarded as equivalent to the absent of the meeting because the incorporated body is different from the persons of which it is composed and, therefore, the omission to give proper notice even to a single member "in these circumstances" would invalidate the meeting. It is further observed that the position is different when, either by custom or by the nature of the body or by its constitution and rules, greater latitude and flexibility are permissible and each case must be governed by its own facts and no universal rule can be laid down. Having observed to this effect it is held that proper notice were issued to all the members including the absentees, and the only defect is that the concerned matter is not included in the agenda of the meeting and in view of any of the item in the agenda namely "other matters, if any" and other circumstances the meeting is not invalid. It is further observed that the substance is more important than the form and if there is substantial compliance with the spirit and substance of the law there is a proper and valid resolution and there was complete unanimity amongst all the members except one. In *K. Narasimhiah Vs. H.C. Singri Gowda*, it was considered that three clear days notice is necessary for a special general meeting and in a situation where some of the councillors received less than three clear days" notice to discuss resolution urgently and 15 out of 19 councillors which attended the meeting voted for the resolution expressing no-confidence in the President of the council it was held proceedings of the meeting were not prejudicially affected by the irregularity in the service of notice and the resolution passed therein was not invalid. The decision of the Supreme Court in *The Punjab University, Chandigarh Vs. Vijay Singh Lamba and Others*, is concerned with fixation of the quorum for the deliberations and is not applicable to the instant case.

10. The learned counsel for the petitioner contended that S. 46(9) warrants that the members present in the meeting only are eligible to vote and the order of the Court enabling the detenus to give preference in absentia is tantamount to adding good deal to the sec. And this Court cannot substitute or supplant the provisions by giving such directions. In support of this proposition reliance is made in *Sri Ram Ram Narain Medhi Vs. The State of Bombay*, and in the context of considering the amplitude of Art. 31(2)(A) of the Constitution the Supreme

Court held as follows at page 470:

"If the language of the enactment is clear and unambiguous it would not be legitimate for the Courts to add any words thereto and evolve therefrom some sense which may be said to carry out the supposed intentions of the legislature. . The intention of the Legislature is to be gathered only from the words used by it and no such liberties can be taken by the Courts for effectuating a supposed intention of the Legislature. There is no warrant at all, in our opinion, for adding these words to the plain terms of Art. 31A (1)(a) and the words "extinguishment or modification of any such rights" must be understood in their plain grammatical sense, without any limitation of the type suggested by the petitioners."

In *British India General Insurance Co. Ltd. Vs. Captain Itbar Singh and Others*, while considering the defences that are open to the insurer under S. 96(2) of the Motor Vehicles Act 1939 it is held as follows at page 1334:-

"What the legislature has done is to enumerate in sub-s. (2) the defences available to an insurer and to provide by sub-s. (6) that he cannot avoid his liability excepting by means of such defences. In order that sub-s. (2) may be interpreted in the way the learned Solicitor-General suggests we have to add words to it. The learned Solicitor-General concedes this and says that the only word that has to be added is the words "also" after the word "grounds". But even this the rules of interpretation do not permit us to do unless the section as it stands is meaningless or of doubtful meaning neither of which we think it is. The addition suggested will, in our view, make the language used unhappy and further effect a complete change in the meaning of the words used in the sub-section."

In *The Commissioner of Sales Tax, U.P., Lucknow Vs. Parson Tools and Plants, Kanpur*, in the context of considering whether the exclusion of time spent in prosecuting in good faith and due diligence on the analogy of S. 14(2), Limitation Act, can be pressed into service in a situation where specific time and also the condonation of delay is contemplated only up to a specified time limit it is as follows:-

"We have said enough and we may say it again that where the legislature clearly declares its intent in the scheme and language of a statute, it is the duty of the Court to give full or policy, and without engrafting, adding or implying anything which is not congenial to or consistent with such expressed intent of the law-giver; more so if the statute is a taxing statute."

The reliance is made upon the decision in *IRC v. Ayeshire Employers Mutual Insurance Association Ltd.*, 1946 1 All ER 637 and *Magor and ST. Mellus Rural District Council v. Newport Corporation* 1952 AC 189 wherein the House of Lords held that the Court cannot fill up the gap and if the language employed in the provision does not achieve the purpose the Court has to decline to supply words or phrases. In the later decision, Lord Simonds resented the doctrine of filling the gap and characterised the same as "naked usurpation of legislative function">

11. The learned counsel for the respondent referred to Craies on statute law (7th Ed.) and relief upon a passage at page 111 wherein it is state that the details can be supplied in the event of omission as follows:-

" If a statute is passed for the purpose of enabling to be done, but omits to mention in terms some detail which is of great importance (if not actually essential) to the proper and effectual performance of the work which the statute has in contemplation, the courts are t liberty to infer that the statute by implication empowers that detail to be carried out."

Reliance is also placed upon the decision reported in *Everett v. Griefiths* (1924) 1 KBD 941. In this case the plaintiff sought for a declaration that the defendant is disqualified from acting as a member of the Islington Board of Guardians under S. 46(1) of the local Government ACT 1894 as he was manager of the Farmers and Cleveland Dairies Company Ltd., who held contract with the guardians for the supply of milk and, therefore, he was a person concerned in the contract and he is also further disqualified under S. 46(2)(C) of the Act as he voted on the issue whether the contract should be given to his own company although he was a share holder therein. The plaintiff is a rate-payer. It was found that the defendant voted at each of the three meetings on a question in which the Farmers Company is interested and it was contended on behalf of the defendant that he did not actually exercise the vote and the matter was considered on the basis of the general agreement and it was carried unanimously. In the context of considering this aspect McCardie J. Held as follows:

"In my opinion the defendant voted at each of the three meetings I have mentioned on a question in which the Framers Company was "interested". The defendant tried to draw a distinction , when giving evidence, between "unanimous" and "nomine contradicants". I can see no distinction on the facts here. Another witness, the clerk to the Board, tried to distinguish between "general agreement" and "carried unanimously"; I can see no distinction. The minutes satisfy me that there were no dissentients and so does the evidence. The minutes indicate that there were no abstentions from voting and so does the evidence. The defendant voted justted just as nay of the other members present. If he did not vote no one voted and an absurdity would result. He admitted in evidence that he "agreed" with the resolutions passed when he was present. I think it reasonably plain that he voted on each occasion. A man may give his vote in diverse ways, either by writing, or by hand, or by voice, or by conduct e.g. by nod. The form in which acquiescence is given matters not if acquiescence be actually indicated. There is no direct authority on the matter. I need only say of Ex parte Order (1) that it is not adverse, I think, to the view I have expressed, I hold that the defendant voted, as I have stated."

The learned counsel for the respondent also referred to Black's Law Dictionary Fourth Edition for the connotation of the vote which is as follows at page 1748:-

"Vote . Suffrage; the expression of his will, preference, or choice, formally

manifested by a member of a legislative or deliberative body, or of a constituency or a body of qualified electors, in regard to the decision to be made by, the body as a whole upon any proposed measure or proceeding or in passing laws, rules or regulations, or the election of an officer or representative. And the aggregate of the expressions of will or choice, thus manifested by individuals, is called the "vote of the body".

12. In Maxwell on the Interpretation of Statutes (12th Ed.) under the caption "Omissions to be inferred" it is stated as follows at page 33:-

"It is a corollary to the general rule of literal construction that nothing is to be added to or taken from a statute unless there are adequate grounds to justify the inference that the legislature intended something which it omitted to express."

Under the heading "Exceptional Construction" it is stated at page 229 as follows:-

"Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity which can hardly have been intended, a construction may be put upon it which modifies the meaning of the words and even the structure of the sentence."

The basic rules of interpretation have been neatly summed up by Cross in "Statutory Interpretation" at page 43 as follows:

"1. The Judge must give effect to the ordinary or, where appropriate, the technical meaning of words in the general context of the statute, he must also determine the extent of general words with reference to that context.

2. If the Judge considers that the application of the words in their ordinary sense would produce an absurd result which cannot reasonably be supposed to have been the intention of the legislature, he may apply them in any secondary meaning which they are capable of bearing.

3. The Judge may read in words which he considers to be necessarily implied by words which are already in the statute and he has a limited power to add to, alter or ignore statutory words in order to prevent a provision from being unintelligible or absurd or totally unreasonable, unworkable, or totally irreconcilable with the rest of the statute."

13. In *Authorised Officer, Thanjavur and Another Vs. S. Naganatha Ayyar and Others*, in the context of construing S. 22 of the Tamil Nadu Land Reforms Act prohibiting transfer of land during the relevant period Krishna Iyer, J. Adverting to canons of statutory interpretation held as follows at para 13:

"The current and correct view of the interpretative process is that words must be given their "literal" or "ordinary" meaning unless there are compelling reasons, recognised by canons of construction, to the contrary. It must be remembered that the judicial rules of law for interpreting statutes applies the judicial

approach, thereby to bring out the value judgment incorporated in the statute itself. Sometimes it is called the "equity of the statute."

It is further held at para 14 as follows:-

Those who have reflected on the meaning of meaning have said, that words..... "mean" nothing by themselves.....(2) They convey policy and the Judge who interprets must seek the intent of the legislature by gaining an insight into this policy and making it manifest through the process of construction."

In *Wiltshire v. Barret*, (1966) 1 QB 312 for the expression "a person committing an offence" it was interpreted as a person believed to have committed offence by a person making arrest and it is held that instead of merely a "person committing an offence" the extension or addition to the same "believed to have committed" is appropriate in the context. In *Director of Public Prosecutions v. Hester*, 1973 AC 296 the words "some other material evidence" were read as "material evidence admissible" and the House of Lords while interpreting to that effect held that the extension is implicit in the words employed by the statute. In the *United States v. William Freeman*, (1843-46) 44 US 453 : 3 How 556 the Supreme Court in the context of giving an interpretation of an extended meaning held as follows:-

"The meaning of the legislature may be extended beyond the precise words used in the law, from the reason or motive upon which the legislature proceeded, from the end in view, or the purpose which was designed; the limitation of the rule being, that to extend the meaning to any case, not included within the words, the case must be shown to come within the same reason upon which the law maker proceeded and not a like reason."

14. In the realm of judicial interpretation the departure from normal maxim of literal interpretation can be made to effectuate the intention and purpose of the enactment. In the course of viatalising the intent or purpose the omissions or gaps can be bridged and extended meaning can be given and details can be appended within the contours facilitating full-fledged sway of the provision. The intention of the legislature must be discovered from the words employed in the statute and the provision should be interpreted in a manner to further the intent and object. In certain situation the modification of the language, or enlarged interpretation to highlight the meaning implicit in the provision is not eluded to square with the intention and advance the purpose. Bearing in mind the object and purpose, the attempt should be made to wield the provision to meet certain situations or exigencies and mere rigidified approach and literal interpretation render the provision unworkable and sapped of dynamism.

15. The mould of S. 46 of A. P. Municipalities Act is to dethorne the Chairman or Vice-Chairman of the Council who forfeited the prescribed majority support of the councillors. The procedure formulated in S. 46 abundantly discloses the exercise to assess the wishes and preference of the councillors. The two land-marks in the

course of arriving at the final consensus of opinion is convening the meeting and putting to vote. The initial step of convening the meeting is to apprise the councillors of the move initiated by the majority of the councillors expressing no-confidence. The debate is intended to churn the diverse shades of opinion with a view to dilute desist from the move or fuel the move already initiated. The climax of the scenario of S. 46 is to ascertain the wishes of the councillors by putting the motion to vote. The sole aim of putting to vote is to take stock of the option of each councillor either in favour or against the motion. The normal mode of ascertaining the wishes visualised by S. 46 is by putting the motion to vote in the meeting convened for consideration of the motion. The contention of the learned counsel for the petitioner that the voting in absentia is not visualised and it is irrevocably ruled out is tantamount to crippling the intent and reach of the provisions. In furtherance of the object to ascertain the wishes certain adjustments and deviations from the normal procedure are not ruled out. The end-all of S. 46 is to arrive at the final outcome of the motion by broadly adhering to the procedure of voting by each councilor. The final step of putting to vote is not hedged in by any rigid procedure and it is elastic enough to rise to the occasion to tailor to certain contingencies and situations. This ultimate event of putting to vote is essentially concerned with driving at the net result after taking into consideration the option of each councillor. The scan of S. 46 discloses that the only aim is to get at the wishes of each councillor and this requirement scan be fulfilled even if the persons casting preference are not present in the meeting. The presence of all councillors in the meeting is not a indispensable requirement and the consensus can be known even if some of the councillors are not physically present in the meeting. The essence of S. 46(9) is to keep track of the inclinations of the members. The two councillors as a sequel to the order of detention were precluded from attending the meeting to cast their vote. With a view to facilitate the detenus to have their say regarding the no-confidence motion this Court evolved a procedure whereby the detenus are permitted to communicate their preference through Jail Superintendent and this procedure is in substantial compliance of S. 46 and this procedure is not inhibited by S. 46. The insistence of the learned counsel for the petitioner on the decision of this Court in *Grandhi Raghurama Gupta, Markapur Vs. Revenue Divisional Officer, Markapur and Others*, is divorced from the grasp of the delicate situation in the instant case. In *G.R. Gupta v. R. D. O. Markapur*, one of the councillors was prevented from attending the meeting consequent upon the contrived machinations at the instance of the parties and considering that they should not be permitted to have the undue harvest of the circumstances disingenuously created by them it was held that the meeting is invalid. In the instant case the permission to express their wish through the medium of a sealed cover will satisfy the requirement of ascertaining the wish without interrupting the process of detention. The mode of voting comprises varied and manifold ways as held in *Everett v. Grifeiths*, (1924-1 KB 941) (*supra*) and this decision bears close affinity to the instant case. The learned counsel for the respondent contended that the expression used in S. 46(9) is merely "put to vote" as distinguished

from the expression "Councillors present and voting" in R. 5 of Sch. I relating to Rules regarding proceedings of the council . Sch. I prescribes the procedure relating to meetings of the Council and the voting by the councillors present only is visualised. This provision is in sharp contrast to the expression "put to vote" in S. 46(9) which evolved a special procedure for carrying no-confidence motion. In view of this distinction the presence of the Councillor at the meeting is not compulsory and S. 46(9) admits latitude and in the event of substantial compliance of S. 46(9) regarding the expression of option the no-confidence motion cannot be considered as illegal. The presumption of the learned counsel for the petitioner that this is tantamount to filling up the gap and such interpretation is not permissible need not be considered as the permission accorded to the two councillors to cast their preferences lubricated the full-fledged operation of the provisions jacked up by details. It may be mentioned that the doctrine of rigid adherence to the language employed in the provision is diluted by the House of Lords in the later decision in *Forther Gill v. Monarch Airlines*, 1981 AC 251.

16. It is pertinent to mention that the two detenus-councillors have sworn to affidavits filed in the writ petition reiterating their unstinted support to the no-confidence motion. The options of these two councillors tilted the issue and in view of their continued support to the motion and having in view the circumstances we are not inclined to exercise our discretion under Art. 226 of the Constitution. The Writ Petition fails on this score also.

17. Writ petition dismissed. No costs. Advocate's fee Rs. 150/-.

18. Petition dismissed.