

(1950) 11 MAD CK 0012

In the Madras High Court

Case No : Civil Miscellaneous Petition No. 2797 of 1950

Peliseti Venkatasubba Rao

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 16-11-1950

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 40(1)

Citation : AIR 1951 Mad 208 : (1951) 64 LW 305 : (1951) 1 MLJ 423

Hon'ble Judges : Rajamannar, C.J.; Panchapakesa Ayyar, J

Bench : Division Bench

Advocate : R. Venkatasubba Rao, P. Ramachandra Rao and P. Babula Reddy, for the Appellant; Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—This is an appln. for the issue of a writ of "certiorari" to quash the order of the local Govt. removing the petnr. from, his

office of Chairman of the Municipality of Palacole. The order was passed by the Govt. on 15-3-1950 u/s 40, Madras District Municipalities Act.

u/s 40(1) of that Act.

The Provincial Govt. may, by notfn.; remove any Chairman or vice-Chairman, who in their opinion wilfully omits or refuses to carry out or

disobeys the provisions of this Act or any rules, bylaws, regulations or lawful orders issued thereunder or abuses the powers vested in him.

Under Sub-section (2) the Govt., before passing an order of removal, is bound to give the Chairman concerned an opportunity for explanation, &

the notfn. issued under Sub-section (1) shall contain a statement of the reasons of the Govt. for the action taken. It is not denied that an opportunity

was given to the petnr. for explanation. From a perusal of the order It is also

clear that it does contain a statement of the reasons, of the Govt. for the action taken. It cannot also be denied that the reasons given, namely, that the petnr. failed to convene the requisitioned meeting & arbitrarily disallowed the resolutions moved by certain councillors without recording the relevant proceedings in the Minutes Book would come within the provision of Section 40, Sub-section (1) & would be valid reasons for removal.

2. Learned counsel for the petnr. contended that the two charges which In the opinion of the Govt. justified his removal were not really made out.

We have pointed out more than once that it is not the province of this Ct., or for the matter of that any Ct., to record its opinion as to whether a

Chairman is or is not guilty of any of the charges levelled against him. u/s 40 Sub-section (1) it is the opinion of the Provincial Govt. that is decisive

on the matter. Therefore, unless the petnr. is able to convince us that the Govt. have not formed an opinion on materials placed before them, or that

they formed the opinion on materials entirely irrelevant to the charges levelled against him, or that the Govt. acted fraudulently in exercise of their

power under that section, this Ct. cannot quash the order of the Provincial Govt. removing a Chairman or vice-Chairman of any municipality. The

learned counsel took considerable time to convince us as regards the first ground that he had reasons for falling to convene the requisitioned

meeting. As we have heard him at such length, we may say that he has utterly failed to convince us that the petnr. was right in having failed to

convene the requisitioned meeting. In our opinion, Rule 3, Sub-rule (1) of Schedule III of the Act in the most unambiguous terms makes it

incumbent on the Chairman to convene a meeting provided three things are satisfied, namely, that the requisition is by not less than a third of the

members then on the council, & it specifies the day (not being a public holiday) when the meeting is to be held, & it specifies the purpose for which

the meeting is to be held. The requisition has to be delivered during office hours to the Chairman or other person mentioned in that rule at least ten

clear days before the day of the meeting. It was not denied by the petnr. that all the requirements of Rule 3 (1), were satisfied. The chairman was

therefore bound to convene the meeting. Whether any resolution passed at that meeting would be valid or not valid because of other provisions of

the Act, & what work could be transacted at that meeting are all beside the

point. These things do not concern the Chairman in any way so far as his obligation under Rule 3 (1) is concerned. Once the conditions laid down in that rule are satisfied, the Chairman has no other option but to convene the meeting. It is true that Sub-rule (2) of Rule 3 provides what is to happen if the Chairman failed to do his duty, but that provision certainly cannot help the Chairman when proceedings are taken against him u/s 40 of the Act.

3. The learned counsel for the petnr. also contended that the other charge, namely, of not recording relevant proceedings the Minutes Book, has not been made out, but there is no substance in this contention. There appears to be no doubt that the Minutes did not contain any record of the resolutions sought to be moved by some of the councillors & which apparently were not allowed to be moved by the petnr.

4. As we have already mentioned, it is not for us to say if the Provincial Govt. should or should not have removed the petnr. We can only interfere if the Govt. in removing the petnr. have contravened any of the material provisions of the Act. That we certainly cannot say. The appln. has no merits & therefore must be & is hereby, dismissed with costs.