
(2015) 08 MP CK 0068
In the Madhya Pradesh High Court
Case No : Writ Petition No. 10413 of 2013

Pratipal Singh

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 14-08-2015

Acts Referred:

Citation : (2015) 08 MP CK 0068

Hon'ble Judges : K.K. Trivedi, J

Bench : Single Bench

Advocate : Ajay Kumar Jain, Learned Counsel, for the Appellant; Sanjay Dwivedi, Learned Deputy Advocate General, Advocates for the Respondent

Final Decision : Dismissed

Judgement

K.K. Trivedi, J—The petitioner a so-called elected President of Watershed Committee, Sorkhi, has approached this Court ventilating his grievance against the order dated 21.05.2013, passed by the Collector, Chhatarpur, by which his representation against the order of Chief Executive Officer, Jila Panchayat for holding of proper election of the said Watershed Committee, has been rejected, alleging that without there being any rhyme or reason or following proper procedure, the election has been set aside and a direction to conduct fresh election has been issued. It is contended that after holding the election by the Gram Sabha, some sort of complaint was lodged behind the back of the petitioner and without conducting any enquiry in that respect, after affording an opportunity of hearing to the petitioner, the Project Officer, Watershed, Zila Panchayat Chhatarpur, has issued some order on the basis of which the election was again to be held, which fact was complained to the Collector by filing a representation. Since such a representation was not being decided, writ petition was filed before this Court by the petitioner in which direction to decide the representation was issued, pursuance to which the impugned order has been passed by the Collector without appreciating the facts as stated in the representation or without conducting an enquiry. According to the petitioner,

such an order is bad in law and is liable to be quashed. On the aforesaid grounds, the following reliefs are claimed by the petitioner :-

"It is, therefore, prayed that :-

(i) records in relation of constitution of Micro Watershed Committee Sorkhi, Block Bada Malhara, District Chhatarpur may kindly be called.

(ii) after perusal of the record, the order of respondent No. 2, Collector (Annx.P/1) dt. 21.5.2013 may kindly be quashed and the respondents may kindly be directed to give charge of the President of Micro Watershed Committee Sorkhi to the petitioner and he may be directed to continue on the said post;

(iii) any other relief which this Hon"ble Court may deem just and proper in the facts and circumstances of the case may be granted in favour of the petitioners."

2. This Court entertained the writ petition, issued the notices to the respondents and by order dated 21.6.2013, it was directed that fresh elections in terms of order impugned passed by the Collector shall not be held. Upon service of the notice of this writ petition, the respondents have filed their return, contending inter alia that the election of the petitioner was nothing, but an eyewash as in terms of the Scheme made by the State Government, all representatives of the groups should have remained present for electing the President of Watershed Committee and since out of 22 representatives only 14 were present, therefore, the election of the petitioner was not just and proper. When the complaint in that respect was received by the Chief Executive Officer, after obtaining the report, the order was rightly passed by him and, as such, it cannot be said that any illegality was committed by the said authority. These facts the Collector has rightly appreciated and has passed just and proper order which need no interference in the present writ petition.

3. The respondent No. 7 has in fact supported the claim made by the petitioner contending that the elections were properly held, therefore, there was no question of conducting fresh election. It is contended that the re- election is ordered only because of some political pressure on the Nodal Officer, which is an illegal act of the said authority.

4. Heard learned counsel for the parties at length and perused the record.

5. First of all, it has to be examined whether any procedure for conducting the election is prescribed under the Scheme made by the State Government or not. The petitioner has not placed on record the copy of the Scheme, but the same is annexed as Annx.R/1 with the return of the official respondents. The Scheme was circulated by the Government of Madhya Pradesh in Panchayat and Rural Development Department vide memo dated 3.5.2010 addressed to all the Collectors of the districts of Madhya Pradesh. The Collectors are in fact the district heads of the Integrated Watershed Management Programme. The object of making such a Scheme is prescribed in the said Scheme. The purpose of the said Scheme is also indicated. The constitution of utility groups is prescribed. The

said utility groups are to be constituted in the watershed/village areas as are selected by the project Authorities. The utility groups are required to execute an agreement with Watershed Committee for the purposes of performance of certain works under the Scheme.

6. Likewise, the self help groups are also to be constituted. These self help groups have also to discharge certain duties such as conducting of meetings of the groups, and to co-ordinate with the Watershed Committee, providing the saving Schemes and internal loans to the members and to discharge all other duties as are indicated by PIA, WDT and WSC. The self help groups are also responsible to maintain the infrastructure and the property and to increase the utility of the resources.

7. The Watershed Committee is to be constituted by the Gram Sabha, which would consist member of utility groups and self help groups and one of the representative of the WDT. Half of the members of the Watershed Committee would be from amongst the Scheduled Caste and Scheduled Tribe Community, women and landless persons. Gram Sabha is further required to elect an eligible person as President of the Watershed Committee. In case of a micro watershed, where more than one Gram Panchayats are included, separate Watershed Committee for each Gram Panchayat were to be constituted. Except this provision, no other provision is made as to how the election would be conducted, what would be the quorum for electing a President of the Watershed Committee. For the convenience, the relevant portion of the constitution of the Watershed Committee is reproduced for ready reference :-

8. In the Scheme so circulated, the constitution of the utility groups and agreement to be executed by the said groups are prescribed, but again in the appendix appended to the Scheme manner of holding election of the President of the Water Shed Committee is not provided. However, Appendix-5 appended along with the Scheme indicates the norms prescribed for constitution of the Watershed Committee, which have certain bearing in the issue involved and, therefore, the same is reproduced hereunder :-

9. A perusal of the same will indicate that while constituting the Watershed Committee, the election of the President of the said Committee would also be conducted. For the purpose of the constitution of the Committee, it is necessary that all self help groups or utility groups should be involved while the members of the said Committee are nominated and one of their representative must remain present in the said meeting of the Gram Sabha. For the said purpose, the information is not only to be given to all the utility groups and self help groups, but the purpose of the meeting of the Gram Sabha should be announced and brought to the notice of all villagers. First the representatives of the utility groups and self help groups are to be nominated by the groups so as to be included in the Water Shed Committee and their names have to be placed before the Gram Sabha. After including the names of those persons, Gram Sabha will constitute the Water Shed Committee and will also elect one such representative

as President of the said Committee. It is very clearly stated that all members of the WDT and the team leaders were required to remain present in the meeting of the Gram Sabha for the purposes of constitution of the Watershed Committee.

10. It is contended by the petitioner that a meeting of the Gram Sabha was convened on 7.11.2012, in which one Mukesh Tripathi, the team leader was present. It was informed by him that the agenda of holding the meeting was notified on Panchayat Bhawan and, thus, election was to be held. Since only 14 representatives of the utility groups were present amongst them, the election was held and the petitioner was elected as President of the Watershed Committee.

11. This resolution of the Gram Sabha itself was not in consonance with the Scheme prescribed in Appendix-5 of the Scheme of the State Government. In fact, all members of the utility groups were required to remain present. First the nomination of the representative member of each of the utility groups and self help groups to be included in the Water Shed Committee, were to be finalised and from amongst those nominated members, election of President of Committee was to be conducted. According to the petitioner, there are 22 utility groups constituted in the Water Shed area. However, only 14 were represented on the date when the meeting was held by the Gram Sabha. This cannot be said to be in consonance with the Scheme made by the State Government. There was no question of any quorum as nothing is prescribed except that all members of the utility groups and self help groups and their nominated representatives were to remain present in the meeting of the Gram Sabha for the purposes of constitution of the Watershed Committee.

12. This itself is enough to demonstrate that the Gram Sabha has not conducted the proper elections after following the Scheme prescribed by the State Government and, therefore, it cannot be said that the petitioner was lawfully elected. Had it been a case that all members were present, and the petitioner was elected unopposed as President of the said Committee, there was no question of making any complaint. Since eight members of the utility groups according to the petitioner himself were not present, in fact, on that day, no elections were required to be held by the Gram Sabha.

13. This being so, findings recorded by the Collector cannot be said to be bad in law in any manner. In fact, in terms of the Scheme, there was no election held on 7.11.2012 nor could it be said that lawful election were held on that day by the Gram Sabha. The benefit of any such election cannot be extended to the petitioner.

14. In view of the aforesaid, no illegality is found in the order passed by the Collector rejecting the representation of the petitioner. As it was not any statutory election to be held, even those Rules of Election as have been pointed out by learned counsel for the petitioner would not be attracted in the present case. Accordingly, no relief whatsoever can be granted to the petitioner.

15. The writ petition fails and is hereby dismissed. The respondents authorities are directed to conduct the election in terms of the Scheme indicated herein above expeditiously. However, in the peculiar facts and circumstances of the case, there shall be no order as to costs.