

(1997) 05 AHC CK 0032
In the Allahabad High Court
Case No : C.M.W.P. No. 16074 of 1997

Raj Singh and Others

APPELLANT

Vs

District Panchayat Raj Adhikari and Others

RESPONDENT

Date of Decision : 12-05-1997

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 12(11), 12(6), 14
Uttar Pradesh Panchayat Raj Rules, 1947 — Rule 33B

Citation : (1997) AWC 323 Supp : (1997) RD 429

Hon'ble Judges : S.R. Singh, J

Bench : Single Bench

Advocate : Shashi Nandan, for the Appellant;

Final Decision : Dismissed

Judgement

S.R. Singh, J.—The only point pressed in this petition is that Pradhan of a Gram Panchayat is not entitled to cast his vote on the motion of no-confidence brought against him.

2. The facts are that the Gram Panchayat Budhai Khurd Block Charthawal, district Muzaffarnagar consists of Pradhan and 13 members elected from different constituencies of the concerned Panchayat areas; a written notice of no-confidence against the Pradhan was given by the members of the Gram Panchayat to the District Panchayat Raj Officer who convened a meeting of the Gram Panchayat in accordance with Section 14 of the U.P. Panchayat Raj Act, 1947 read with Rule 33B of the Rules framed thereunder as amended upto date; twelve out of thirteen members are said to have participated in the meeting while one Ghamandi Lal remained absent; eight votes are said to have been cast in favour of the motion of no-confidence, whereas five including Pradhan are said to have voted against the motion. It is upon these facts that the learned Counsel appearing for the Petitioner urged that since the Pradhan was not the member of the Gram Panchayat, the vote cast by him was not liable to be taken into consideration and, therefore, the motion would be deemed to have been carried

inasmuch as eight out of twelve members present and voting had voted in favour of the motion. Thus, the motion was carried by majority of two-thirds members present and voting.

3. The submission made by the learned Counsel for the Petitioner cannot be countenanced. In Section 12 (11) of the U.P. Panchayat Raj Act as it stood before its substitution by U.P. Act No. 9 of 1994, there was a clear stipulation that the Pradhan would not be deemed to be the member of the Gram Panchayat and would not be entitled to vote except "in the case of motion or resolution before the Gram Panchayat, but excluding any election" and the Pradhan in that eventuality had a casting vote and that too "in the case of equality of votes and in no other case." In Section 12 (6) as it stands substituted by the U.P. Act No. 9 of 1994, there is a clear stipulation that Pradhan shall be deemed to be a member of the Gram Panchayat. It is thus evident that the very basis of the submission made by the learned Counsel for the Petitioner has no legs to stand upon. By virtue of Sub-section (6) of Section 12 of the U.P. Panchayat Raj Act as it stands substituted by the U.P. Act No. 9 of 1994, the Pradhan shall be deemed to be a member of the Gram Panchayat and that being the position, the Pradhan shall be entitled to participate in the meeting convened for purpose of discussion and voting on the motion of no-confidence brought against him.

4. In view of the above discussion, there is no merit in this petition. It is accordingly dismissed.