
(2007) 05 MP CK 0044
In the Madhya Pradesh High Court

Ravindra Singh and Another	Vs	APPELLANT
State of Madhya Pradesh and Others		RESPONDENT

Date of Decision : 01-05-2007

Acts Referred:

Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 — Section 21(3)

Citation : (2008) 1 ALT(Cri) 20 : (2007) 3 MPHT 172

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shantanu Kemkar, J.—The petitioners are elected Panchas of Gram Panchayat Ishanagar Tehsil and District Chhatarpur (for short "Gram Panchayat"). Out of total 20 Panchas, 15 Panchas of the Gram Panchayat desiring to move a motion of no-confidence against the fourth respondent Sarpanch of Gram Panchayat gave a notice on 25-1-2007 under Rule 3 of the Madhya Pradesh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 (for short "Avishwas Prastav Niyam, 1994") to the third respondent/Prescribed Authority.

2. On receipt of the aforesaid notice dated 25-1-2007 (Annexure P-2) the Prescribed Authority called upon the Chief Executive Officer, Janpad Panchayat, Chhatarpur to produce list of elected Panchas of Gram Panchayat. On 27-1-2007 the fourth respondent along with 6 Panchas who were amongst the signatories of the notice (Annexure P-2) voluntarily appeared before the Prescribed Authority. The said 6 Panchas made a statement before the Prescribed Authority that they are not interested to move no-confidence motion against the fourth respondent Sarpanch. The Prescribed Authority after hearing the parties rejected the notice to move the motion of no-confidence vide order dated 31-1-2007 (Annexure P-4) on the ground that as Panchas out of the 15 Panchas who had earlier signed the notice to move no-confidence motion are not in favour of the notice of no-

confidence motion against the Sarpanch, no useful purpose will be served in fixing the date for consideration of the no-confidence motion. Feeling aggrieved by the said order dated 31-1-2007 (Annexure P-3) the petitioners had filed an appeal before the Collector but the same was dismissed vide order dated 24-2-2007 (Annexure P-4). Hence, this petition.

3. The petitioners contend that under the provisions of M.P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short "Adhiniyam of 1993") and Avishwas Prastav Niyam, 1994 the Prescribed Authority is not empowered to enquire into the correctness of the notice received by him under Rule 3 of Avishwas Prastav Niyam, 1994. The Prescribed Authority is required to satisfy only about the admissibility of the notice with reference to Section 21 (3) of the Adhiniyam of 1993. However, instead of it the Prescribed Authority allowed the Panchas to appear before him and submit affidavits stating therein that they are not interested to move the motion of no-confidence against the Sarpanch thereby acted in excess of his jurisdiction.

4. On the other hand the respondents supported the action of the Prescribed Authority.

5. It is not in dispute that more than 1/3rd of the total number of Panchas of the Gram Panchayat desiring to move a motion of no-confidence against the fourth respondent Sarpanch gave a notice to the third respondent in the prescribed Form (Annexure P-2) as provided under Rule 3(1) of Avishwas Prastav Niyam, 1994. After the receipt of notice (Annexure P-2) the Prescribed Authority was required to satisfy only about the admissibility of the notice with reference to Section 21 (3) of the Adhiniyam of 1993. On being satisfied about the admissibility u/s 21 (3) of the Adhiniyam, 1993 he was required to fix the date, time and place of the meeting of Gram Panchayat not more than 15 days from the date of receipt of such notice and to dispatch the notice of such meetings specifying the date, time and place through the Secretary of Gram Panchayat to every Panch of the Panchayat, 7 days before the meeting. However, the Prescribed Authority instead of satisfying itself about the admissibility of the notice with reference to Section 21 (3) gone to the extent so as to hold that no useful purpose will be served in convening the meeting. In my opinion the procedure adopted and the order passed by the Prescribed Authority so as to reject the notice dated 25-1-2007 received by him under Rule 3 of the Avishwas Prastav Niyam, 1994 is beyond his jurisdiction, therefore, cannot be sustained.

6. Accordingly, the impugned order dated 31-1 -2007 (Annexure P-1) and the appellate order dated 24-2-2007 (Annexure P-6) are quashed. As a consequence, the third respondent Prescribed Authority is directed to take appropriate steps on the notice dated 25-1-2007 (Annexure P-2) received by him under Rule 3 of the Avishwas Prastav Niyam, 1994 and proceed with the same in accordance with law, forth with.

7. The petition is allowed. No orders as to cost.