
(2000) 09 MAD CK 0070

In the Madras High Court

Case No : Writ Petition No's. 6523, 13429 and 14130 of 2000

S. Murugesan

APPELLANT

Vs

The Collector and Others

RESPONDENT

Date of Decision : 18-09-2000

Acts Referred:

Tamil Nadu District Municipalities Act, 1920 — Section 40B(4), 40B(5), 40B(6)

Citation : AIR 2001 Mad 160

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : J. Pothiraj, for the Appellant; K.R. Tamil Mani, Special Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—Admittedly, by one-third of the sanctioned strength of the council, a representation was made u/s 40-B of the Tamilnadu District Municipalities Act, for seeking the removal of the petitioner from the post of Chairman of Naranammalpuram Town Panchayat on 3-3-2000. In pursuance of which, the Assistant Director of Town Panchayat, viz, the competent authority, convened a meeting to decide on the proposed removal of the petitioner from the post of Chairman of the Narayammalpuram Town Panchayat on 11-4-2000, which was challenged in W.P. No. 6523 of 2000. However, the said meeting could not be held due to the alleged administrative reasons, and therefore, stood adjourned to 9-8-2000, which was again challenged in W.P. No. 13429 of 2000. Again, on an alleged administrative reason, the meeting was not proceeded with on 9-8-2000, but stood adjourned to 24-8-2000, which necessitated the petitioner to file W. P. No. 14130 of 2000.

2. Under the above facts and circumstances of the case, the learned counsel for the petitioner contends that the proposed meeting could not be proceeded with after more than one adjournment as per Section 40-B(5).

3. Mr. K.R. Tamil Mani, learned Special Government Pleader, fairly bringing to the notice of this Court Section 40-B (3), (4) and (5) of the Tamilnadu District Municipalities Act, states that only one adjournment is permissible. Under such facts and circumstances of the case, the respondents cannot proceed on the impugned agenda, namely, removal of the petitioner from the post of Chairman of Naranammalpuram Town Panchayat after more than one adjournment, as held by a Division Bench of this Court by order dated 12-10-1999 made in W.A. No. 2017 of 1999 (The State of Tamilnadu Rep. by Director of Town Panchayat and Anr. v. T.S. Vaithyalingam and Anr.), while interpreting Section 40-A (4), (5) and (6) of the Act, which is in pari materia with Section 40-B (3), (4) and (5) of the Act.

4. In this regard, I am obliged to refer to Section 40-B (3), (4) and (5), which read as follows :

"40-B. Removal of Chairman-

(3) The "Regional Inspector" shall preside at the meeting convened under this section and no other person shall preside thereat. If, within half an hour, appoint for the meeting, the Regional Inspector is not present to preside at the meeting, the meeting shall stand adjourned to a date to be appointed and notified to the chairman and councillors by the Regional Inspector under Sub-section (4).

(4) If the Regional Inspector is unable to preside at the meeting, he may after recording his reasons in writing, adjourn the meeting to such other date as he may appoint. The date so appointed shall not be later than seven days from the date appointed for the meeting under Sub-section (1). Notice of not less than three clear days shall be given to the chairman and the councillors, of the date appointed for the adjourned meeting.

(5) Save as provided in sub-sections (3) and (4), a meeting convened for the purpose of considering the notice for the removal of the chairman under this section shall not for any reason, be adjourned."

5. No doubt, Section 40-A (4), (5) and (6) deals, in pari materia, with motion of no confidence in Vice-President and this Court, by order dated 12-10-1999 made in W.A, No. 2017 of 1999 (The State of Tamilnadu Rep. by Director of Town Panchayat and Anr. v. T. S. Vaithyalingam and Anr.), while interpreting Section 40-A (4), (5) and (6) of the Tamilnadu District Municipalities Act, has held as follows :

"5. The learned Special Government Pleader contended that the meeting was convened under Sub-section (3) of Section 40-A of the Act within 30 days but the same was adjourned and on that day the Assistant Director of Town Panchayat could not participate and the meeting was notified for another date and on the second time also, the meeting could not be held and it was adjourned. Going by Section 40-A, sub-section (6) the meeting convened for the purpose of considering the no confidence motion, shall not be adjourned except

as provided under sub-sections (4) and (5). In the instant case admittedly the meeting was sought to be held on 24-6-1999 was adjourned which is against Sub-section (3) of the Section 40-A of the Act."

"6. The learned Government Pleader submitted that the direction contained in S. No. 40-A(3) to convene the meeting within 30 days is not mandatory in nature. Section 40-A, Sub-section (3) reads as follows :

The Regional Inspector of Municipalities shall then convene a meeting for the consideration of the motion, to be held at the municipal office, at a time appointed by him which shall not be later than 30 days from the date on which the notice under sub-section (2) was delivered to him."

"7. From the above it is clear that the Regional Inspector of Municipalities which was later changed as Assistant Director of Panchayat shall convene the meeting within 30 days from the date of receipt of notice. The learned Government Pleader would contend that if this section is construed as mandatory, it would cause injustice and if the meeting is not convened within that period, the proceedings will be lapsed. We are not inclined to accept this contention. Power has been given to the Assistant Director to convene a meeting and the procedure has been laid down under this section and the officer is bound to follow that procedure. We do not think that such an officer should be given liberty to convene a meeting at his pleasure. Reading of this section is clear that the officer shall convene a meeting within the period stipulated under this Section."

6. If that be so, in the instant case, the respondents have no authority and jurisdiction to proceed on the impugned agenda, namely, removal of the petitioner from the post of Chairman of Naranammalpuram Town Panchayat, after adjourning the impugned meeting more than once. Hence, the impugned proceedings in the respective writ petitions are quashed and the writ petitions stand allowed. However, it is for the Government to enquire into the alleged administrative reasons which necessitated the second respondent-Assistant Director for adjourning the matter for more than once, and take appropriate action against the Chairman, Narariammalpuram Town Panchayat, if it is so required.

This writ petition is allowed. No costs. Consequently, W.M.P. Nos. 9763, 9764, 19450. 19451, 20456 and 20457 of 2000 are closed.