
(1976) 09 P&H CK 0020
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2072 of 1976

Sahi Ram

APPELLANT

Vs

Director of Panchayats, Haryana

RESPONDENT

Date of Decision : 10-09-1976

Acts Referred:

Citation : (1977) PLJ 64 : (1985) RRR 537

Hon'ble Judges : O. Chinnappa Reddy, J

Advocate : Mr. Chandra Singh, Advocate., Advocates for appearing Parties

Judgement

O. Chinnappa Reddy, J.

1. The Gram Panchayat of Sarai Bahadur Nagar consists of seven Panches. The petitioner was elected as Sarpanch in the year 1971. The Director of Panchayats granted permission to the Gram Panchayat to consider a motion of Noconfidence against the Sarpanch. Pursuant to the permission granted by the Director, the Block Development and Panchayat Officer convened a meeting of the Gram Panchayat to consider the motion of No confidence. Though notice of the meetings were served on all the seven Panches of the Gram Panchayat, only three Panches attended the meeting. There was none to move the resolution of Noconfidence. On the other hand, all the three members who were present purported to express their confidence in the Sarpanch. The Officer who presided over the meeting reported to the Block Development and Panchayat Officer that the prescribed quorum for a meeting was not present on 19th December, 1975. Thereupon, the Block Development and Panchayat Officer again convened a meeting of the Gram Panchayat to consider the motion of Noconfidence and issued notices to all the Panches. The meeting was held on 2nd April 1976. This time the resolution of Noconfidence was moved, seconded and carried, four Panches voting for the resolution and three against it. In this application for the issue of a writ, the petitioner questions the proceedings of the Gram Panchayat dated 2nd April, 1976.

2. The learned counsel for the petitioner relied on the fourth proviso to section

9(2) of the Act which is to the effect that no meeting to consider a motion of Noconfidence shall be convened before the expiry of one year from the date on which the Sarpanch took oath of office and if the Sarpanch is not removed at such a meeting no further meeting shall be convened for considering a similar proposal until after the expiry of one year from the date of the last such meeting. The simple answer of the respondents was that there was no meeting on 19th December, 1975 as there was no quorum and therefore, the bar imposed by the fourth proviso that one year should expire after the date of the last meeting was not applicable. The respondents also relied upon Rules 38 and 39 of the Haryana Gram Panchayat Election Rules, 1971 which, though they relate to meetings for election of Sarpanch, were held to be applicable to meetings to consider resolutions of Noconfidence also by virtue of section 21 of the Punjab General Clauses Act (vide *Dharam Singh v. The State of Haryana*, 1974 P.L.J. 365, and *Hardatt Singh v. The Block Development and Panchayat Officer*, 1975 P.L.J. 499 : 1985 R.R.R. 589. The learned counsel for the petitioner argued that Rules 38 and 39 which prescribed a quorum for the first meeting to elect a Sarpanch and no quorum for an adjourned meeting if no Sarpanch was elected at the first meeting were inconsistent with the second proviso to section 9(2) of the Act which provided for the removal of a Sarpanch from his office by a majority of the votes of the Panches constituting a Gram Panchayat. He argued that since the Act required that majority of the Panches should vote for the motion of Noconfidence in order to remove the Sarpanch, the rule could not prescribe that no quorum was necessary for such a meeting as that would be in conflict with the provision in the Act.

3. We do not think that there is any conflict between the provisions of the Act and the rules. The provision in the rules that no quorum is necessary at an adjourned meeting is intended to validate such adjourned meeting despite the lack of quorum. The rule is apparently designed to prevent the working of a Gram Panchayat coming to a standstill by the failure of the Panches to participate in the meetings. The meeting without a quorum in such circumstances would be considered to be a valid meeting but it does not follow therefrom that a motion of Noconfidence can be carried by a majority of the members present at the meeting. The statutory requirement that a majority of the members constituting the Gram Panchayat should vote for the motion of No confidence has to be satisfied. The result will be that the resolution will necessarily have to be declared lost at the adjourned meeting if there is no quorum.

4. The learned counsel for the petitioner urged that the meeting held on 2nd April, 1976, was within a period of one year from 19th December 1975, the date of the first meeting and it was, therefore, expressly barred by the fourth proviso to section 9(2). This submission is without substance. There was no meeting on 19th December, 1975 since there was no quorum. It is true that a meeting was convened for 19th December, 1975, but in the absence of quorum the meeting could not be validly held. Even if three of the members sat together and passed a vote of confidence in favour of the Sarpanch it was of no consequence since their

meetings was not a meeting of the Gram Panchayat. Shackleton in his "The Law & Practice on Meetings" observes, "It is a generally accepted principle that business transacted at a meeting at which a quorum is not present is invalid." In *Nilkantha v. Murari*, A.I.R. 1923 Bombay 273, it was held that if there was no quorum, the members who had assembled could not transact any business of the body of which they were members. In *George Bell v. Royal Western India Turf Club Ltd.*, A.I.R. 1946 Bombay 88, it was stated to be well established that if there was no quorum, the proceedings of the meeting were invalid.

5. The learned counsel for the petitioner argued that the clear object of the fourth proviso to section 9(2) was to give a certain limited security of tenure to a democratically elected Sarpanch and that the provision should be so construed as to bar the convening of a second meeting within a period of one year if an earlier meeting had been convened whether there was quorum or no quorum at the first meeting. We agree with the learned counsel that the proviso is aimed at securing to the Sarpanch a limited security of tenure and to prevent frequent crossing of floor by Panches but we do not think that the provision is intended to protect a Sarpanch who has not faced a meeting validly convened and validly held to consider a motion of Noconfidence against him. We do not think that we are called upon to give such an interpretation, nor do we think that it lies in the mouth of the petitioner who has lost the confidence of the majority of the Panches to invoke the aid of democracy to protect himself from being dislodged from office. The writ petition is dismissed. There will be no order as to costs.