

(1968) 11 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2528 of 1968

Shri Ram Kala

APPELLANT

Vs

The State of Haryana and others

RESPONDENT

Date of Decision : 07-11-1968

Acts Referred:

Gram Panchayat Act, 1952 — Section 9(2)

Citation : (1968) 11 P&H CK 0006

Hon'ble Judges : Bal Raj Tuli, J

Bench : Single Bench

Advocate : S.P. Goyal, for the Appellant; P.S. Daulta for Advocate-General and Mr. U.D. Gaur, for the Respondent

Final Decision : Allowed

Judgement

B.R. Tuli, J.—The petitioner in this case, Shri Ram Kala, is a Sarpanch of Gram Panchayat of Gram Sabha, Daulatabad, Tehsil and District Gurgaon. The total number of members of the Gram Sabha at the relevant time was 1451. On the 2nd May, 1968, a notice was served upon the petitioner by the Block Development and Panchayat Officer that an extraordinary general meeting of the Gram Sabha would be held on the 1st of June, 1968, at 6.00 p.m. at a public place in village Daulatabad in accordance with the provisions of section 9(2) of the Gram Panchayat Act, 1952, to seek a vote of confidence. The petitioner apparently understood that a motion of no-confidence in him was going to be considered at the meeting. According to the petitioner, only about 50 persons collected in the High School building at the appointed time where the District Development and Panchayat Officer, Gurgaon, and the Block Development and Panchayat Officer, Gurgaon, were present and the Block Development and Panchayat Officer suggested to the sponsors of the no confidence motion to approach the members of the Gram Sabha at their houses and to get their thumb-marks in token of their votes in favour of the no-confidence motion. The petitioner protested against this procedure and submitted that whatever ins to be

done, should be done In the open meeting, as it would not be safe to rely on the thumb marks collected by the opposite party at his back, but this was not agreed to by the District Development and Panchayat Officer or the Block Development and Panchayat Officer. This fact has been denied by the Block Development and Panchayat Officer in " his affidavit which has been filed by way of return. It is asserted that a regular meeting was held at which the motion of no-confidence in the petitioner was put to vote and was passed with 123g votes in favour of the motion and nill vote against it. The approval of the Director of Panchayats, Haryana, was sought to this resolution which was conveyed by memo. No. A-2 58/9234-36, dated the 26th July, 1968, as a result of which the Deputy Commissioner removed the petitioner from the office of Sarpanch by order dated the 5th August, 1968 This petition has been filed for an appropriate writ quashing the said order of the Deputy Commissioner, Gurgaon, removing the petitioner from the office of Sarpanch, Gram Panchayat, Daulatabad, with immediate affect, and the permission accorded to his removal by the Director of Panchyats, Haryana, by memo. No. A-2 58/9234-36, dated the 26th of July, 1968.

2. It has been argued by the learned counsel for the petitioner that general meetings, both ordinary and extraordinary, of the Gram Sabha, have to be held in accordance with section 12 of the Punjab Gram Panchayat Act, 1952, (hereinafter called the Act) and Rule 5 of the Punjab Gram Panchayat Rules, 1965. According to section 9(2) of the Act, the Sarpanch or a Panch can be removed from his office by a two thirds majority of the members of the Sabha at an extraordinary general meeting held with the previous permission of the Director provided the approval to the removal is given by the Director. This subsection does not state how an extraordinary general meeting has to be called and by whom and how it has to be conducted. The provision for that matter, in my opinion, has been made in section 12 of the Act and Rule 5 ibid. According to section 12, an extraordinary general meeting can be held by the Sarpanch, at any time, and, where a requisition in writing of the Panchayat Samiti or of not less than one-fifth of the total number of members of the Sabha has been received by him, he is to call an extraordinary general meeting of the Sabha within 30 days from the receipt of such requisition. If an extraordinary general meeting is not called within 30 days, then the Panchayat Samiti shall call such meeting. According to Rule 5, the notice of at least 15 days has to be given to the members for holding a general meeting of the Sabha which includes both ordinary and extraordinary meetings In the instant case, the notice was sent by the Block Development and Panchayat Officer and it is not shown that it had been issued with the previous permission of the Director of Panchayats The notice is dated the 23rd May, 1968, for a meeting to be held on the 1st of June, 1968. Evidently, the notice was of less than 15 days. In the notice no place is mentioned. u/s 12 of the Act, it is the Sarpanch or the Panchayat Samiti which can call an extraordinary general meeting and not the Block Development and Panchayat Officer. The summoning of this meeting was, therefore, not in accordance with sections 9 and 12 of the Act of Rule 5 of the Punjab Gram

Panchayat Rules, 1965. The meeting alleged to have been held on the 1st of June, 1963, was, thus, invalid and the vote of no-confidence in the petitioner alleged to have been passed at that meeting is of no effect. The approval given by the Director to that resolution also does not validate the removal of the petitioner from the office of Sarpanch.

3. For the reasons given above this petition is allowed and the order of the Deputy Commissioner removing the petitioner from the office of Sarpanch Gram Panchayat, Daulatabad, dated the 5th August, 1968, (annexure "C") and the memo dated the 26th July, 1968, issued by Director of Panchayats, Haryana, granting permission to the removal of the petitioner from the office of Sarpanch Gram Panchayat, Daulatabad (annexure "B") are hereby quashed. In the circumstances of the case. I leave the parties to bear their own costs.