
(1985) 09 BOM CK 0007

In the Bombay High Court

Case No : Writ Petition No. 3920 of 1985

Shrikant Mallappa Ulegadi

APPELLANT

Vs

Gram Panchayat at Mouje Kadgaon

RESPONDENT

Date of Decision : 24-09-1985

Acts Referred:

Bombay Village Panchayats Act, 1958 — Section 29(1)

Citation : (1986) 88 BOMLR 79 : (1986) MhLj 514

Hon'ble Judges : K. Madhava Reddy, C.J.; S.M. Daud, J

Bench : Division Bench

Judgement

K. Madhava Reddy, C.J.—The petitioner herein, who was a member of the Gram, Panchayat, signed and sent a notice of resignation in the form prescribed under the Bombay Village Panchayats (Delivery of Notice of Resignation) Rules, 1965. The question is whether his resignation took effect and he ceased to be a member of the Gram Panchayat?

2. Though there was some attempt to put up before the Collector a case that this notice was not sent voluntarily and knowingly, the petitioner having admitted before the Collector that he had in fact sent a notice of resignation voluntarily, it is not now open to him to raise that question in these writ proceedings. Once it is held that he has sent the notice of resignation, the only question that requires to be considered is whether it amounts to resignation within the meaning of Section 29(1) of the Bombay Village Panchayats Act, 1958? Section 29(1) does not speak of notice of resignation. It only provides that any member who is elected may resign his office by writing under his hand addressed to the Sarpanch and the Sarpanch may resign his office of member by writing under his hand addressed to the Chairman of the Panchayat Samiti. It further provides that the resignation shall be delivered in the manner prescribed. The manner prescribed under the aforesaid rules is to send the resignation or the notice of resignation in Form-I prescribed under Rule 3(2). The notice sent by the petitioner, of course, does not state that he has tendered the resignation, but recites

I hereby tender the notice of my resignation from the office of Gram Panchayat.

It must be noticed that the rules do not require a notice of resignation to be accompanied by any further letter of resignation. In other words, what is required of a person resigning is to sign the form and deliver it to the prescribed authority. Evidently where the person intends to resign forthwith he will say I am tendering resignation and where one intends to resign from a particular date gives notice of resignation. In either case, the form is the same, the intention is to resign and the consequence is vacancy in the office. That requirement has been fulfilled and consequently petitioner shall be deemed to have resigned and cannot now dispute his resignation.

3. The petitioner having sent the notice of resignation voluntarily, disputed the same for the first time on February 1, 1985 i.e. more than seven days after it was actually delivered to the Gram Panchayat. Sub-section (3) of Section 29 provides that if any member or the Sarpanch whose resignation is placed before the meeting of the panchayat, wants to dispute the genuineness of the resignation, he shall refer such dispute to the Collector within seven days from the date on which his resignation is placed before the meeting of the panchayat. Sub-section 6(a) further provides that where there is no dispute regarding the genuineness, the resignation shall take effect after the expiry of seven days from the date on which it is placed before the meeting of the panchayat. The notice of resignation was received on January 15, 1985 and it was placed before the meeting on January 28, 1985. He did not raise any dispute before the Gram Panchayat. When no such dispute is raised, as laid down u/s 6, the resignation takes effect after the expiry of seven days from the date on which it is placed before the meeting of the panchayat. The fact that he has raised the dispute on February 1, 1985, does not arrest the consequence laid down u/s 6. In as much as no dispute was raised regarding the genuineness of the notice of resignation, either before the Gram Panchayat or before the Collector, the petitioner ceased to be a member of the Gram Panchayat. The resignation, therefore, took effect on the expiry of seven days. There is no merit in the writ petition. The petition is accordingly rejected.