
(1995) 05 OHC CK 0025
In the Orissa High Court
Case No : O.J.C. No. 8760 of 1994

Shyam Kumar Meher

APPELLANT

Vs

Collector, Bargarh and Others

RESPONDENT

Date of Decision : 10-05-1995

Acts Referred:

Orissa Grama Panchayat Act, 1964 — Section 24(3)

Citation : AIR 1996 Ori 28 : (1995) 2 OLR 34

Hon'ble Judges : P.C. Naik, J;A. Pasayat, J

Bench : Division Bench

Advocate : B.P. Das, B. Pr. Das and B.M. Sarangi, for the Appellant; Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

Pasayat, J.—Petitioner assails the notice for holding a meeting to move a resolution of no confidence relating to his continuance as Sarpanch of Bijepur Grama Panchayat In the district of Bargarh. According to him, such notice is invalid in view of provisions contained in Clause (b) of Sub-section (3) of Section 24 of the Orissa Gram Panchayat Act, 1964 (in short, the "Act").

2. A brief reference to the factual aspect is necessary for dealing with the question. Petitioner was elected as Sarpanch of the aforesaid Grama Panchayat in the year 1992. On 3-10-1994 a notice was issued by the Sub-Divisional Officer, Padampur fixing the date, time and place of meeting to move a motion of no confidence against the petitioner on the basis of a requisition received from some ward members to convene such meeting. In the notice, date of meeting was fixed to 21-10-1994. Since the ward members were absent, the meeting stood annulled in view of Clause (i) of Sub-section (2) of Section 24 of the Act. Subsequently, on 7-12-1994 another notice was issued fixing the date of meeting to be 29-12-1994. Validity of this notice (Annexure-3 to the writ application) is subject-matter of challenge.

3. In the counter affidavit filed pursuant to notice, it is stated that no confidence can only be brought after lapse of one year from the date of previous meeting convened for the purpose of moving motion of no confidence. It is stated that the said prescription was not kept in view as the copy of Gazette dated 18-10-1994 with regard to amendment of Section 24(3) had not been received.

4. Section 24 of the Act deals with vote of no confidence against Sarpanch or Naib Sarpanch. Section 24(2)(i) reads as follows:

"24. Vote of no confidence against Sarpanch or Naib Sarpanch.

(2) xxxxx

(i) if the number of members present at the meeting is less than two third of the total membership of the Grama Panchayat, the resolution shall stand annulled;"

Section 24(3)(b) of Act is pivotal provision around which dispute at hand revolves reads as follows:

"24. xx xx xx xx xx (3) When a meeting has been held in pursuance of Sub-section (2) for recording want of confidence in the Sarpanch or Naib-Sarpanch, as the case may be, no fresh requisition for a meeting shall be maintainable before the expiry of-

XX XX Xx xx xx

(b) one year from the date of the meeting, in cases falling under Clause (1) of the said subsection, or in cases where the resolution is defeated after being considered at such meeting."

A combined reading of Clause (i) of Sub-section (2) and Clause (b) of Sub-section (3) of Section 24 of the Act makes it clear that in number of members present at a meeting is less than two thirds of the total members of the Grama Panchayat, the resolution automatically stands annulled, and where such is the situation, no fresh requisition for meeting is maintainable before expiry of one year from the date of meeting, in a case falling under Clause (i) of Sub-section (2). Bar imposed under Clause (b) of Sub-section (3) of Section 24 clearly operates in the case at hand. So notice fixing the date of meeting for consideration of motion for no confidence has no validity.

5. The writ application is allowed. The notice dated 7-12-1994 (Annexure 3) is quashed. There shall be no order as to costs.

B.K. Naik, J.

6. I agree.