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**(2001) 02 MP CK 0010**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No. 2826 of 2000**

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| Smt. Asha Singh                    | Vs | APPELLANT  |
| State of Madhya Pradesh and others |    | RESPONDENT |

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**Date of Decision :** 05-02-2001

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227  
Madhya Pradesh Municipal Corporation Act, 1956 — Section 37

**Citation :** (2001) 02 MP CK 0010

**Hon'ble Judges :** Dipak Misra, J

**Bench :** Single Bench

**Advocate :** R.N. Singh, Counse with Akhil Singh, for the Appellant; V.K. Shukla, (for No. 3) and S.L. Saxena, (for No. 4), for the Respondent

**Final Decision :** Dismissed

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## Judgement

Dipak Misra, J.—Two interesting and seminal questions of law that arise for consideration in this writ petition are : whether a Mayor while constituting the Mayor-in-council under the provisions of M.P. Municipal Corporation Act, 1956 (hereinafter referred to as the "Act") is required to obtain prior consent of a councillor who is to be taken in as a member; and whether after the Mayor-in-Council is constituted if there is resignation of a member, the functions of the Mayor-in-Council to be carried out by the Municipal Corporation on the ground that it has lost its legal status ? To put it differently, can any elected councillor be compelled to act against his will; and whether vesting of power with the Municipal Corporation because of incomplete nature of the body, Mayor-in-council, would tantamount to the analogy of "Matsya Nyaya" that the big fish devours the small one ?

2. Invoking the extra-ordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India the petitioner has prayed for issue of a writ of certiorari for quashment of orders dated 29-4-2000, Annexures-P-1 and P-2 passed by the Principal Secretary. Urban Administration Department, respondent

No. 2 herein, by which it has been conveyed that the constitution of Mayor-in-council is not in accordance with law, and hence, the powers vested in Mayor-in-Council shall be exercised by the Municipal Corporation.

3. The facts as have been uncurtained in the writ petition are that the Municipal Corporation, Rewa consists of 45 wards and the election in respect of these wards had taken place on 22-12-89. On that very date the election for the post of Mayor was held and the petitioner was elected as Mayor. It is setforth that the petitioner contested the election as a B.J.P. candidate and defeated Smt. Asha Tiwari who contested on a Congress ticket. It is averred in the writ petition that from amongst 45 Councillors eight councillors belong to Bhartiya Janta Party, thirty councillors have roots in Congress and Bahujan Samaj Party, five candidates are independent and the rest are from Janta Party and Communist Party. The respondent No. 4 was elected as the Speaker of the Corporation by the councillors. It is putforth in the writ petition that after the petitioner was elected as a Mayor of the Corporation as per requirement of Section 37 of the Act she constituted the Mayor-in-Council which was notified on 19-1-2000. One Molai Kol belonging to Scheduled Tribe was included in the Mayor-in-Council as per the mandate under Rule 3(2) of Madhya Pradesh Municipalities (The Conduct of Business of the Mayor-in-Council/ President-in-Council and the Powers and Functions of the Authorities) Rules, 1998 (hereinafter referred to as "the Rules"). The said councillor subsequently resigned at the instance of respondent No. 4. Letter of resignation was not submitted to the Mayor but was handedover to Commissioner. Municipal Corporation who forwarded the same to the petitioner. After the resignation of said Molai Kol the respondent No. 4 in the Council meeting projected that the constitution of Mayor-in-council was illegal and invalid. At this juncture the Commissioner sent a communication dated 28-1-2000 seeking clarification from the State Government regarding the legal position of the constitution of the Mayor-in-council in view of the resignation of said Molai Kol. It is pleaded in the writ petition that the petitioner explained his stand to the State Government justifying the validity of the constitution of Mayor-in-Council, It is alleged that without appreciating the clarification given by the petitioner, the respondent No. 2 being politically influenced sent two letters as contained in Annexures P-1 and P-2 dated 29-4-2000 indicating that the constitution of Mayor-in-Council is illegal and therefore the powers of the Mayor-in-Council shall vest in the Municipal Corporation, After the receipt of the aforesaid two letters the petitioner sent a detailed memorandum explaining the position in regard to legality and validity of the constitution of Mayor-in-Council. It is averred that the constitution of Mayor-in-Council was done by the petitioner as per requirement of Section 37 of the Act and Rule 3(2) of the Rules. It is further urged that the resignation of Molai Kol would not affect the constitution of Mayor-in-Council, and hence, the communications sent by respondent No. 2 reek of mala fide.

4. A return has been filed by the respondents Nos. 1 and 2 disputing the allegations of mala fide and contending, inter alia, that by the resignation of

Molai Kol the Mayor-in-Council is deemed not to have been constituted and in absence of filling of a vacancy of Molai Kol it is to be construed that the Mayor-in-Council is not in existence. It is also pleaded that the constitution of Mayor-in-Council is absolutely vitiated inasmuch as the consent of Molai Kol was not obtained prior to his nomination. It is further set forth that the constitution of Mayor-in-Council having become invalid and keeping in the view provisions of Rule the State Government in exercise of its powers conferred on it u/s 426-A of the Act issued instructions contained in Annexure-P-2. Reliance has been placed on Rule 10-A of the Rules which has come into force on 29-4-2000. It has been averred that as petitioner has failed to constitute the Mayor-in-Council after resignation of Molai Kol the respondents Nos. 1 and 2 had no other option but to direct the powers of Mayor-in-Council to be exercised by the Municipal Corporation as per the provision enshrined under newly amended Rule 10-A of the Rules.

5. A counter-affidavit has been filed by the respondent No. 3 contending, inter alia, that said Molai Kol had resigned as he was inducted as Mayor-in-Council without his consent and taking note of his declaration the Corporation passed a resolution to the effect that the constitution of Mayor-in-Council is void. The said resolution dated 8-2-2000 was forwarded to the State Government as required u/s 53(2) of the Act. It is pleaded that the State Government has exercised the powers u/s 426-A of the Act by issuing necessary direction in view of the arising of a difficulty and to give effect to provisions of the Act, and therefore, the action of the State Government cannot be lanced on the ground of mala fide or arbitrariness.

6. A reply has been filed by the respondent No. 4 wherein it has been put forth that the matter was discussed in Council as per the instructions issued by the State Government on 24-11-1997 which clarifies that either Mayor or Speaker can include some new items in the agenda for consideration in the meeting of the council. It has been urged that the petitioner has miserably failed to constitute the Mayor-in-Council as per law and, therefore, after the resignation of said Molai Kol the State Government had no option but to issue appropriate direction as per communication contained in Annexures-P-1 and P-2. The grounds of mala fides have been specifically disputed in the counter-affidavit.

7. Assailing the impugned orders it is submitted by Mr. R.N. Singh, learned senior counsel, that the petitioner having constituted the Mayor-in-Council as per law the resignation of a councillor from the Mayor-in-Council would not make it non-functional and it would have the complete authority to carry out its functions. Learned senior counsel referring to the role ascribed to Mayor in constitution of Mayor-in-Council has urged that once the Mayor-in-Council is constituted in accordance with the Rule 3 of the Rules the amended Rule 10-A would not come into play and the Mayor-in-Council would have the authority to act. It is his further submission that the question of taking prior consent of any councillor does not arise as the Mayor has the authority to constitute the Mayor-in-Council.

He has referred to Section 49 of the Act to highlight that as long as the quorum in question is fulfilled the powers of Mayor-in-Council can not be allowed to sink to a quietus by transferring to the Corporation. Learned senior counsel has further proposed that Section 51 of the Act saves and redeems such a situation. And hence, the instructions given by respondent No. 2 vide Annexures-P-1 and P-2 have no sancrosanctity in law. To buttress his submissions he has placed reliance on the decisions rendered in the cases of Rajendar Singh Vs. N.K. Shejwalker and Another, , B.K. Srinivasan and Others Vs. State of Karnataka and Others, and Dr. Rameshwar Nath v. Dr. Harisingh Gour Vishwavidyalaya, 1989 MPLJ 389 : (1989 Lab IC 1978).

8. Mr. V.K. Tankha, learned Advocate General, per contra, has proposed that a Mayor-in-Council has to be constituted in accordance with the provisions of the Act and the Rules framed thereunder and induction of a councillor in the Mayor-in-Council has to be on his prior consent as no one can be compelled to act against his/her Will in a matter of this nature. In support of his aforesaid contention he has placed reliance on the decision rendered in the case of Tradax Export SA v. Volkswagenwerk AG., (1970) 1 All ER 420. It is his further submission that the language used in the Act and the Rules, when properly scrutinized to convey the meaning that the Mayor-in-Council is always required to consist of the requisite members and in failure thereof would deprive it of the legal status. It is studiously urged by Mr. Tankha that the word "constituted" used in Rule 10-A of the Rules can never be intended to connote the first act of constitution but would mean to remain in continuance.

9. Mr. V.K. Shukla, learned counsel for respondent No. 3, resisting the submissions of Mr. R.N. Singh, learned senior counsel for the petitioner, has canvassed that the word "constituted" used in the Act as well as in the Rules conceives of a permanent body and its continuance in its entirety and, therefore, when the composition of the body is affected, it loses its right to function.

10. Mr. S.L. Saxena, learned senior counsel for the respondent No. 4, has seriously combated the acts of mala fide alleged against the respondent No. 4. Learned senior counsel has putforth that the provisions in the Act and the Rules have to be given a purposeful meaning so that the legislative intendment is not frustrated. He has diligently contended that the concept of quorum as recorded in Section 49 renders no assistance to the petitioner inasmuch as the term quorum has its full play when the body, Mayor-in-Council, is in existence but in absence of the body it has to pale into insignificance. He has further proposed that Section 51 of the Act cannot be taken aid of in a situation of this nature as the very constitution of Mayor-in-Council is called in question.

11. Before I advert to various contentions raised at the Bar I think it apposite to clearly state here that the learned senior counsel for the petitioner as well as learned counsel for the respondents did not press the point with regard to mala fide as that does not have any kind of impact on the fact situation of the case, Mr. Singh, learned senior counsel for the petitioner, did not press with regard to

the authority of the State Government in issuing the orders as per Annexures-P-1 and P-2. In fact, the learned counsel for the parties confined their arguments to pure question of law, and hence, I proceed to deal with them keeping in view the statutory provisions.

12. Section 6 of the Act deals with Municipal authorities charged with the execution of this Act. The authorities provided therein are the Corporation, the Mayor-in-Council and the Commissioner. Section 9 deals with the composition of Municipal Corporation. Section 37 deals with the constitution of Mayor-in-Council. The said provision being relevant for the present purpose is reproduced below :-

37. Constitution of Mayor-in-Council.

(1) There shall be a Mayor-in-Council for every Corporation which shall be constituted by the Mayor from amongst the elected Councillors within seven days from the date of election of Speaker u/s 18.

(2) The Mayor-in-Council shall consist of the Mayor and ten members, in every corporation.

(3) The members of the Mayor-in-Council shall hold office during the pleasure of the Mayor.

(4) Each corporation shall have such departments as may be prescribed and member of the Mayor-in-Council may be made incharge of such department as may deem fit by the Mayor.

(5) The Mayor shall be the ex-officio Chairman of the Mayor-in-Council and shall preside over the meetings of the Mayor in-Council, if present. In the absence of the Mayor, the members present in the meeting shall choose one of them to preside over the meetings.

(6) Notwithstanding anything contained in this Act, the Mayor-in-Council, Mayor and the members shall exercise such powers and perform such functions as may be prescribed.

(7) The functions and the conduct of business of the Mayor-in-Council shall be such as may be prescribed.

(8) In case the office of the Mayor is declared vacant under this Act, the Councillor nominated by the Government under Sub-section (2) of Section 21 to perform the duties of the Mayor or a person who is elected for the office of the Mayor, as the case may be, either allow the existing members of the Mayor-in-Council to continue or appoint new members in place of them from amongst the elected Councillors.

At this juncture it is apposite to refer to Rule 3 of the Rules. It reads as under :-

3. Constitution of Mayor-in-Council. - (1) In every Municipal Corporation the Mayor-in-Council shall consist of Mayor and ten Members. (2) All the ten members, as described in sub-rule (1) shall be taken by the Mayor from the

elected councillors of the Corporation in which at least two members from women category, at least two members from other Backward Classes and at least one member from Scheduled Caste or Scheduled Tribe category shall be necessary to include. Simultaneously the Speaker shall also be included as one of the members. All these members may remain as members of the Mayor-in-Council during the pleasure of the Mayor.

Rule 10-A which has been introduced by way of amendment on 29-4-2000 is as under :-

10-A. Alternative arrangement on non-compliance of instructions contained in Rules 3 and 4. - Notwithstanding anything contained in these rules if the Mayor-in-Council or the President-in-Council, as the case may be, is not constituted in accordance with the provisions of Rule 3 or Rule 4, as the case may be, then in the circumstance all the cases relating to the powers and functions of the Mayor-in-Council or the President-in-Council, as the case may be, vested in these rules or in the Act, shall be decided by the Corporation in place of Mayor-in-Council and Council in place of President-in-Council.

As has been indicated earlier submission of Mr. R.N. Singh, learned senior counsel, is that once the Mayor-in-Council is constituted in accordance with the provisions of Rule 3, Rule 10-A would cease to have any effect. This contention of the learned counsel for the petitioner is solely based on the use of word "constituted" in the Rule 10-A. submission of learned Advocate General is that the Mayor-in-Council was not constituted inasmuch as no consent of the Scheduled Tribe member was taken. He has also urged with equal vehemence that even if it was constituted it ceased to be the Mayor-in-Council as per provisions of the statute after resignation of the nominated member,

13. Before I deal with the submission whether prior consent is required or not I think it appropriate to address myself with regard to the second limb of argument of learned Advocate General. As per Section 37(2) of the Act the Mayor-in-Council is required to consist of the Mayor and ten members and as per sub-section (3) the members of the Mayor-in-Council are to remain in office during the pleasure of the Mayor. As per Rule 3 of the Mayor-in-Council shall consist of Mayor and ten members. The said Rule further mentions the categories from which the members shall be taken by the Mayor in Mayor-in-Council. It is also stipulated in the said Rule that all these members would remain as members of Mayor-in-Council during the pleasure of the Mayor. The learned counsel for the respondents have laid immense emphasis on the word "Consist" and concept of "Doctrine of Pleasure". In Black's Law Dictionary the word "Consist" has been defined as under :-

To stand together, to be composed of or made up of.

At this juncture it is essential to refer to the word "constitute". The Law Lexicon 1997 Edition (Sic) by P. Ramantha Aiyar gives the meaning of the same as under :-

Constitute. To appoint, depute, elect : to establish.

1. To make (a thing) what it is; to frame; to compose; 2. appoint.

To Constitute, Appoint, Depute. The act of choosing some person or persons for an office is comprehended under all these terms; constitute is a more solemn act than appoint, and this than depute; to constitute is the act of a body; to appoint and depute either of a body or an individual : a community constitutes anyone there leader; a monarch appoints his ministers; an assembly deposes some of its members. To constitute implies the act of making as well as choosing; the office as well as the person is new : in appointing, the person, but not the office, is new. A person may be constituted arbiter or Judge as circumstances may require; a successor is appointed, but not constituted.

According to the doctrine of Roman Catholic Church, the Pope is constituted supreme head of the Christian Church throughout the whole of the world; Governors are appointed to distant provinces; persons are deputed to present petitions or make representations to Government.

If the word "consist" is understood in its etymological backdrop and scanned in its denotative sense and appreciated in its con-notative contours it becomes luminously clear that the Mayor-in-Council has to have the Mayor and ten members all the time because Mayor-in-Council is composed of the Mayor and ten members. The word "consist" has an element of continuity in it. Submission of the learned counsel for the respondents is that if the contention of the petitioner is accepted to the effect that once the Mayor-in-Council is constituted, the Rule 10-A would not come into play, it would give rise to a situation where the Mayor would have more dictatorial powers and have leverage to act in breach of the provisions of the Act as well as the Rules. To substantiate the aforesaid stand the learned counsel have given a hypothetical example which is worth mentioning. As per sub-section (3) of Section 37 the members of Mayor-in-Council can only remain in office during the pleasure of the Mayor. Once the doctrine of Pleasure is attracted the members can be removed at any point of time without following the principles of natural justice and in that event the Mayor would be at liberty to remove some members and would be entitled to contend that the Mayor-in-Council having been constituted once must be allowed to carry out its function and exercise its powers and Rule 10-A would not be attracted. The aforesaid hypothetical example has its own significance. Section 37 of the Act, Rule 3 and Rule 10-A of the Rules are to be read harmoniously so that a purposive interpretation is given to the language used in the said provisions. The word "Constituted" has to act in aid of the word "consist" and cannot be allowed to be given a meaning of nullify the effect, impact and import of the term "consist".

Mr. Singh, learned senior counsel, has drawn the attention of this Court to Section 49 of the Act which deals with quorum of the Mayor-in-Council or any other committee. The said provision reads as under :-

49. Quorum of the Mayor-in-Council or any other Committee - The quorum for

the meeting of the Mayor-in-Council or any other Committee appointed u/s 46 or 48 shall be one-half of total its members.

14. It is submitted by Mr. Singh that as long as the "quorum" is in existence the powers of the Mayor-in-Council (once constituted in accordance with the provisions) cannot vest in Municipal Corporation by operation of Rule 10-A. the aforesaid submission at a first flush looks quite attractive but on a deeper scrutiny melts into insignificance. The word "quorum" came to be interpreted by the Lordships of the Apex Court in the case of *The Punjab University, Chandigarh Vs. Vijay Singh Lamba and Others*, in the following language :-

Quorum denotes the minimum number of members of any body of persons whose presence is necessary in order to enable that body to transact its business validly, so that its acts may be lawful.

From the aforesaid enunciation of law it is graphically clear that the quorum conceptually provides presence of minimum number of persons of any body. It is logically deductible that quorum is concerned with the presence of members for transacting the business of the body. In a way, it is relatable to doing certain acts by the body. Thus the body, must exist as per law and then only the question of quorum would arise. If a body is not in existence as per the provisions of law because there has been no proper composition the availability of quorum does not validate the same. Quorum validates the transaction of a body but does not rectify the defects in the constitution of the body. To put it differently quorum is of temporary significance and it has a role when the valid body is in existence. When analysed and adjudged from these angles submission of Mr. Singh to the effect that as long as the minimum members are available to constitute the quorum, the Mayor-in-Council cannot deprive of its powers is unacceptable.

15. Mr. Singh, leaned senior counsel for the petitioner, has also referred to Section 51 of the Act. He has proposed that the said provision should be treated as "Ganga" Clause to validate every defect. The said provision reads as under :-

51. Vacancies, etc., not to invalidate proceedings. - No act or proceeding of the Corporation or of any Committee appointed under this Act, shall be questioned on account of any vacancy in the membership or any defect in the election or qualification of the Mayor, (Speaker), presiding authority, any councillor or member thereof, or any defect or irregularity in any such act or proceeding not affecting the merits of the case.

Leaned senior counsel has drawn inspiration from the decision rendered in the case of *B.K. Srinivasan and Others Vs. State of Karnataka and Others*, wherein the Apex Court referred to Section 76-J of Mysore Town and Country Planning Act, 1961 which provides for validation of acts and proceedings. Their Lordships in paragraph 18 have held as under :-

18. The High Court was of the view that such defect as there was in regard to publication of the Plan was cured by S. 76-J, the Omnibus Curative Clause to



which we earlier made a reference as the "Ganga" Clause. Provisions similar to S. 76-J, are found in several modern Acts and their object is to put beyond challenge defects of constitution of statutory bodies and defects of procedure which have not led to any substantial prejudice. We are inclined to agree with the High Court that a defective publication which has otherwise served its purpose is not sufficient to render illegal what is published and that such defect is cured by S. 76-J.

The learned counsel has also referred to case of Rajendar Singh Vs. N.K. Shejwalker and Another, . In the aforesaid case a Division Bench of this Court referred to Section 51 of the M.P. Municipalities Act, 1961 and held as under (at pp. 251-252 of AIR) :-

In our opinion that section is enacted for the protection of "acts" and "proceeding" of the Corporation when there is any vacancy in the membership or any defect in the election or qualification of the Mayor, Deputy Mayor, Presiding Authority etc. in any such act or proceeding which defect does not affect the merits of the case. The object and purpose of this section primarily is that an act or proceedings of the Corporation will not be held as invalid merely because it can be shown subsequently that there was any vacancy in the membership or that there had been some defect in the election of the Mayor or the Deputy Mayor etc. In the present case what the petitioner challenges is not merely any act or proceeding of the Corporation but the very election of the Mayor and the Deputy Mayor. In our opinion, it is not necessary to probe deeper into this question, so far as the present case is concerned.

Mr. Singh has also commended to me the decision rendered in the case Dr. Rameshwar Nath (1989 Lab IC 1978) (Madh Pra) (supra) wherein a Division Bench of this Court relied on the provision enshrined u/s 58 of the Madhya Pradesh Vishwavidyalaya Adhiniyam (22 of 1973) and came to hold that an appointment of a teaching post challenged on grounds that Selection Committee comprised of Rector as member whose term of office had ceased would not invalidate the proceedings of the Selection Committee. On a reading of the aforesaid decisions it is graphically clear that the acts of a particular body is not regarded as invalid because of some vacancies of membership or any defect in the election or qualification of the Mayor or the Speaker or Presiding Authority. In the instant case no act or proceeding of the Corporation is called in question. In my considered view the Division Bench in the case of Rajendar Singh Vs. N.K. Shejwalker and Another, while taking note of the provision observed that the matter related to challenge of the very election of Mayor and the Deputy Mayor. In the case at hand it is vivid that no one has questioned any act or proceeding of the Corporation. What is required to be decided whether the Mayor-in-Council has to become non-functional as a scheduled tribe member has resigned and thereby there is a failure in composition. Thus the "Ganga" Clause, which ordinarily remedies all insufficiencies does not render any assistance to the petitioner.

16. From the preceding analysis the irresistible conclusion is that Mayor-in-Council has to consist of its total members and the members must be taken from the various categories as stipulated under Rule 3 of the Rules and if there is reduction or subsidence in its composition it would be deemed that the Mayor-in-Council is not constituted in accordance with law. As has been indicated earlier the provisions of the Act and Rules are to be read harmoniously and on the harmonious reading of the same the only conclusion that emerges is that the language used in Rule 10-A "is not constituted" would mean to remain constituted as per law and not that it is once constituted would not become non-functional even if defect creeps in into the realm of composition.

17. Presently, I shall advert to the contention of the learned counsel for the respondents that before nominating the member of the Mayor-in-Council his/her consent is essential and in absence of that the constitution has to collapse like a pack of cards. The learned Advocate General has submitted that in any constitution the concept of establishment is inbuilt and once a body is to be established by certain specified members the concept of consent is attracted. His submission is that no appointment or nomination can be completed without the consent of the person concerned. In the case of Tradax Export SA (1970 (1) All ER 420) (supra) wherein the Court of Appeal was dealing with the appointment of an arbitrator. Lord Denning referred to Russell on Arbitration which laid down as under :-

Acceptance of the office by the arbitrator appears to be necessary to perfect his appointment.

Edmund Davies LJ also referred to the "Russell on Arbitration" and further quoted from the same which reads as under :-

It has been so decided in the case of an umpire, and it would seem to be only reasonable that an appointment should not be considered effective until the person appointed has agreed either expressly or tacitly to exercise the functions of the office.

I am conscious that the aforesaid decision was rendered in relation to appointment of an arbitrator. But the principle laid therein is of immense importance. A councillor who is nominated to the Mayor-in-Council has to give his consent to be in Mayor-in-Council. A councillor may have valid reasons to refuse to be a part of Mayor-in-Council. A councillor may think that he may not be in a body wherefrom he can be removed by the pleasure of the Mayor. In my considered opinion giving of consent is inhered and it cannot be said that the Mayor has the authority to choose at his own Will without obtaining the prior consent of the councillors. Submission of Mr. Singh is that if the concept of consent is allowed to be introduced the Mayor may not be in a position to constitute the Mayor-in-Council. Constitution of Mayor-in-Council is a requirement of the statute in a particular manner. If a Mayor fails to constitute the Mayor-in-Council there would be no hazard in functioning of the Municipal

Corporation inasmuch as the amended Rule 10-A has envisaged that the powers of the Mayor-in-Council shall be exercised by the Municipal Corporation, Indubitably the Municipal Corporation is a larger body and if larger body exercises the powers it cannot be said that the basic principle of democracy is violated. Thus the big fish does not devour the small one. In view of the aforesaid analysis I am inclined to accept the submission of Mr. V.K. Tankha that as the consent of said Molai Kol was not taken it has to be logically deduced that the Mayor-in-Council was not properly constituted.

18. Before I part with the case I feel obliged to observe that if the petitioner inducts a member from the scheduled tribe after obtaining the consent of the said member the Mayor-in-Council would become functional but till then the Municipal Corporation has to act as per the provision engrafted under Rule 10-A of the Rules,

19. Resultantly, the writ petition being sans substance is dismissed without any order as to costs.