

(2014) 03 KAR CK 0039

In the Karnataka High Court

Case No : Writ Petition No. 13559/2014 (LB-RES)

Smt. Gangambike

APPELLANT

Vs

The Assistant Commissioner, Hunsur Sub-Division and Others

RESPONDENT

Date of Decision : 25-03-2014

Acts Referred:

Citation : (2014) 3 AKR 24 : (2014) 6 KarLJ 607 : (2014) 3 KCCR 1903

Hon'ble Judges : A.N. Venugopal Gowda, J

Bench : Single Bench

Advocate : K.H. Ramu, Advocate for the Appellant; H.T. Narendra Prasad, A.G.A. for R1, Advocate for the Respondent

Judgement

A.N. Venugopala Gowda, J.—Removal of the petitioner from the post of Adhyaksha of the Grama Panchayat pursuant to No-Confidence Motion moved against her has been called in question in this writ petition.

2. Petitioner along with respondent Nos. 3 to 16 were elected on 17.05.2010 as the members of Koppa Grama Panchayat (for short "the Panchayat"), Piriapatna Taluk. On 29.12.2012, petitioner was elected as Adhyaksha of the Panchayat. Respondent Nos. 3 to 16 submitted on 10.02.2014, vide Annexure-E, a notice of No-Confidence Motion to the respondent No. 1, who in turn issued notices on 19.02.2014, vide Annexure-F, to the Adhyaksha, Upadhyaksha and all members of the Panchayat, of the meeting, to be convened on 11.03.2014. Out of 19 members of the Panchayat, 14 attended the meeting and voted in favour of the Motion. The Motion, therefore, having been carried with two-thirds of the total strength of the Grama Panchayat for removal of the petitioner from the post of Adhyaksha, was accepted and a notification was issued and immediately published in the notice board of the Panchayat vide Annexure-K. This writ petition is directed against the proceedings.

3. The solitary ground urged by Sri. K.H. Ramu, learned advocate is that the meeting of the Panchayat convened to discuss the Motion has not been debated

and without recording any reasons the Motion having been held has carried through and the petitioner having been illegally removed, interference is called for.

4. Sri. H.T. Narendra Prasad, learned HCGP, on the other hand contended that a proper notice having been issued on 19.02.2014 by the respondent No. 1, to the Adhyaksha, Upadhyaksha and all the members of the Panchayat with regard to the convening of special meeting of the Panchayat on 11.03.2014, the Motion was put to vote in the manner required in Sub-Rule (7) of Rule 3 of the Karnataka Panchayat Raj (Motion of No Confidence against Adhyaksha and Upadhyaksha) Rules, 1994 (for short "the Rules") and 14 out of 19 members of the Panchayat having voted in favour of the Motion and thus having been carried by majority of not less than two-thirds of the total number of members of the Panchayat, the Motion was accepted by the respondent No. 1 and consequential action in terms of Sub-Rule (9) of Rule 3 has been taken. He submitted that in the facts and circumstances of the case, the writ petition being devoid of merit, no interference with the proceedings of the Panchayat vide Annexure-K is warranted.

5. Sub-Rule (1) of Rule 3 provides that a written notice of intention to make the Motion under the proviso to S. 49, shall be in Form-I, signed by not less than one-third of the total number of members, together with copy of the proposed Motion shall be delivered in person, by any two of the members signing the notice, to the Assistant Commissioner. Annexure-E is the written notice submitted by respondent Nos. 3 to 16 to the respondent No. 1, who thereafter, convened the meeting for consideration of the said Motion at the office of the Grama Panchayat by giving the notice dated 19.02.2014 vide Annexure-F, under Sub-Rule (2) of Rule 3. The said notice was given to all the members of the Panchayat including the Adhyaksha and Upadhyaksha, fixing the meeting at 11.00 a.m., on 11.03.2014.

6. The petitioner had represented to the respondent No. 1, on 10.03.2014, vide Annexure-G, that in view of her indisposition, she would not be able to attend the meeting convened at 11.00 a.m. on 11.03.2014 and sought adjournment. In view of Sub-Rule (5) of Rule 3, the scope of which was explained in the case of Sri T. Rajakumar Naik and Smt. Gangamma Vs. The Assistant Commissioner, The Panchayath Development Officer, The Election Officer and The Gram Panchayath, , the respondent No. 1 having no authority to adjourn the meeting convened for the purpose of consideration of the Motion under Sub-Rule (2) of Rule 3, there being quorum, has chaired and rightly conducted the meeting.

7. The Panchayat has 19 members, out of whom 14 having assembled as per the notice vide Annexure-F, the respondent No. 1 having read to the members of the Panchayat, the Motion, for consideration of which the meeting was convened, has put it to vote. Sub-Rules (7) & (8) of Rule 3 being relevant, read thus:-

(7) As soon as the meeting convened under sub-rule (2) commences the

Assistant Commissioner shall read to the members of the Grama Panchayat, the motion for the consideration of which the meeting has been convened and shall put it to vote without any debate.

(8) The Assistant Commissioner shall not speak on the merits of the motion and he shall not be entitled to vote thereon.

(Emphasis supplied)

Sub-Rule (7) of Rule 3 prohibits any debate at the time of consideration of a Motion of No-Confidence moved against the Adhyaksha or the Upadhyaksha, as the case may be. Since the statutory provision prohibits a particular mode of conduct of the meeting convened, the Assistant Commissioner is justified in reading to the members of the Grama Panchayat, the Motion for consideration of which the meeting was convened and in putting the same for vote without any debate.

8. The impugned proceedings of the Panchayat vide Annexure-K having taken place in accordance with law, no fault can be found with the action of the respondent No. 1 in issuing and publishing Annexure-K, which is flawless.

In the result, there being no ground to issue "Rule Nisi" and the writ petition being devoid of merit is rejected.

Sri. H.T. Narendra Prasad, is permitted to file memo of appearance within four weeks.