

(2010) 11 UK CK 0056

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1942 of 2010

Smt. Laxmi Devi Negi

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 19-11-2010

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 14(1)

Citation : (2010) 11 UK CK 0056

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.

(Stay Application No. 9614 of 2010)

1. Heard learned Counsel for the parties on the stay application and perused the record.

2. By means of this petition, the Petitioner has sought a writ in the nature of certiorari quashing the impugned resolution of no-confidence motion dated 10-11-2010 passed against the Petitioner by Gram Sabha Kokhandi, Block Augustmuni, district Rudra Prayag. Contained in Annexure No. 10.

3. The main ground of challenge of the impugned resolution is that there is a mandatory provision as per Section 14(1) of the Uttar Pradesh/Uttaranchal Panchayat Raj Act, 1947 (for short the Act), at least 15 days previous notice of the meeting of no confidence motion has to be given, but in the present case the compliance of this provision is lacking.

Section 14(1) of the Act reads as under:

14. Removal of Pradhan.-(1) The Gram Sabha may at a meeting specially convened for the purpose and of which atleast 15 days previous notice shall be given, remove the Pradhan by a majority of two-thirds of the members of the Gram Sabha present and voting.

4. For calculating 15 days, both the terminal days have to be excluded from computation.
5. Learned Counsel for the Petitioner has contended that the notice of no confidence motion was sent by registered post on 1-11-2010. The copy of postal receipt has been annexed as Annexure-9 to the writ petition, which reveals that the notice was sent on 1-11-2010 and the meeting of no-confidence motion was held on 10-11-2010, therefore, the meeting of no confidence motion was held much before the expiry of 15 days" previous notice, which is prima facie bad in law in view of a Division Bench judgment of the Allahabad High Court in the case of Yadu Nath Pandey v. District Panchayat Raj Officer 1986 R.D. 368 wherein it has been held that in computing 15 days both the first and the last days have to be excluded.
6. In the above facts and circumstances, as an interim measure, till the next date of listing, the operation of the impugned resolution of no-confidence motion dated 10-11-2010 (Annexure-10 to the writ petition) shall remain stayed.
7. The stay application is disposed of accordingly.
8. Learned Brief Holder for the Respondents prays for and is granted four weeks" time to file counter affidavit.
9. List thereafter.