

(1997) 08 KAR CK 0024
In the Karnataka High Court
Case No : Writ Petition No. 21648 of 1997

Smt. Parvathi

APPELLANT

Vs

The Assistant Commissioner, Haveri Sub-Division, Haveri and
Another

RESPONDENT

Date of Decision : 11-08-1997

Acts Referred:

Karnataka Panchayat Raj (Motion of no-confidence against Adhyaksha and
Upadhyaksha of Grama Panchayat) Rules, 1994 — Rule 3 (1)
Karnataka Panchayat Raj Act, 1993 — Section 49

Citation : (1997) ILR (Kar) 3230 : (1998) 1 KarLJ 399

Hon'ble Judges : Chandrashekaraiah, J

Bench : Single Bench

Advocate : Sri Mohan Shanthangoudar, for the Appellant; Sri A. Nagarajappa,
Government Advocate, for the Respondent

Judgement

1. The petitioner has challenged the notice calling for the meeting to consider no confidence motion against the petitioner in this petition.

2. The petitioner is the elected Adhyaksha of Kuppellur Gram Panchayat. Some of the members of the Panchayat moved a no confidence motion against the petitioner by giving the notice to the Assistant Commissioner as contemplated under the Karnataka Panchayat Raj Act, 1993 (for short "the Act"). Pursuant to the said notice the Assistant Commissioner called for the meeting by his notice dated 29-7-1997. This, according to the petitioner is illegal on the ground that the Assistant Commissioner has no authority whatsoever to call for the meeting within the expiry of 10 days from the date of receipt of the notice.

3. Proviso to Section 49 of the Act, reads thus:

"Provided that no such resolution shall be moved unless notice of the resolution is signed by not less than one-third of the total number of members and at least ten days notice has been given of the intention to move the resolution".

4. In the instant case, the notice of no confidence motion, signed by one-third of the total number of members of the Panchayat, is dated 23-7-1997. Thereafter the Assistant Commissioner called for the meeting fixing the date of the meeting as 22-8-1997, by the notice dated 29-7-1997. According to the learned Counsel for the petitioner, the Assistant Commissioner has no authority to call for the meeting to consider the motion of no confidence before the expiry of 10 days from the date of notice by one-third members of the Panchayat. In the instant case the notice calling for meeting is dated 29-7-1997, that is, before 10 days from 23-7-1997. On this fact, it is contended that the Assistant Commissioner has not followed the procedure prescribed under the Act.

5. Under the proviso to Section 49 of the Act, at least ten days notice is required to be given by the one-third of the total members to the Assistant Commissioner expressing their intention to move the no confidence.

6. Rule 3 of the Karnataka Panchayat Raj (Motion of No Confidence against Adhyaksha and Upadhyaksha) Rules, 1994, provides the procedure for moving the no confidence motion. Sub-rules" (1) and (2) of Rule 3 of the rules reads thus;--

"(1) A written notice of intention to make the motion under the proviso to Section 49 of the Act, shall be in Form I signed by not less than one third of the total number of members together with a copy of the proposed motion shall be delivered in person by any two of the members signing the notice to the Assistant Commissioner.

(2) The Assistant Commissioner shall thereafter convene a meeting for the consideration of the said motion at the Office of the Gram Panchayat on the date appointed by him which shall not be later than 30 days from the date on which the notice under sub-rule (1) was delivered to him. He shall give to the members a notice of not less than fifteen clear days of such meeting in Form II".

7. From the reading of the rules with the proviso to Section 49 of the Act, it is clear that the persons who intend to move the no confidence, shall give at least ten days notice to the Assistant Commissioner. This ten days notice to the Assistant Commissioner will not come in the way of the Assistant Commissioner to call for the meeting to consider the motion of no confidence before the expiry of 10 days from the date he received the notice. Therefore, I find no substance in the contention of the learned Counsel for the petitioner.

8. In view of the above, I find no illegality in calling for the meeting to consider the motion of no confidence. Accordingly, writ petition is rejected.