

(2003) 07 KAR CK 0029
In the Karnataka High Court
Case No : Writ Petition No. 20720 of 2003

Smt. Sujaya Ramappa

APPELLANT

Vs

The Assistant Commissioner, Shimoga Sub-Division and
Another

RESPONDENT

Date of Decision : 04-07-2003

Acts Referred:

Karnataka Panchayat Raj Act, 1993 — Section 141 (2) (a)

Citation : (2003) 5 KarLJ 76 : (2003) 4 KCCR 414 SN

Hon'ble Judges : Chandrashekaraiah, J

Bench : Single Bench

Advocate : A. Nagarajappa and T.H. Narayana, for the Appellant; H.B. Narayan, High Court Government Pleader for Respondent-1 and M. Papanna, for Respondent-2, for the Respondent

Final Decision : Allowed

Judgement

Chandrashekaraiah, J.—The petitioner is the Adhyaksha of the 2nd respondent-Taluk Panchayat. 1/3rd of the total number of members of the Taluk Panchayat gave a notice to the Adhyaksha expressing their intention to move the motion of no confidence as against the petitioner. This notice was received in the office of the Adhyaksha on 31-3-2003, as seen from the records produced by the learned Government Pleader. On the very same day, it appears, the said notice was brought to the notice of the petitioner. On receipt of the said notice, the petitioner has not taken any steps to call for the special meeting to consider the motion of no confidence. But the Executive Officer of the 2nd respondent by his notice dated 8-4-2003, called for the meeting of the Taluk Panchayat fixing the date of meeting as 16-4-2003. On 16-4-2003, the motion was passed by majority. This decision of the Taluk Panchayat on the motion of no confidence moved against the petitioner has been questioned by the petitioner in this petition.

2. Sri A. Nagarajappa, learned Counsel for the petitioner submits that u/s 141(2)

(a) of the Karnataka Panchayat Raj Act, 1993 (for short, the "Act"), the Adhyaksha is required to call for the meeting on any motion signed by 1/3rd of the total number of members of the Panchayat within 15 days from the date of receipt of such request. But in the instant case, it is submitted that the Executive Officer of the Taluk Panchayat on 8-4-2003, even before the expiry of 15 days has called for the meeting and therefore any decision taken on the basis of the notice issued by the Executive Officer is illegal.

3. Sri M. Papanna, learned Counsel for respondent 2 submits that there is no illegality or irregularity in calling for meeting by the Executive Officer of the Taluk Panchayat, since no steps were taken by the Adhyaksha of the Taluk Panchayat to call for the meeting. The learned Government Pleader also supports the submission made by Sri Papanna, learned Counsel.

4. The motion of no confidence is required to be considered by calling for special meeting. Section 141(2)(a) of the Act reads as follows.-

"141(2)(a). The Adhyaksha may, whenever he thinks fit, and shall, upon the written request of not less than one-third of the total number of members and on a date within fifteen days from the receipt of such request, call a special meeting. Such request shall specify the object for which the meeting is proposed to be called. If the Adhyaksha fails to call a special meeting, the Upadhyaksha or one-third of the total number of members may call the special meeting for a day not more than fifteen days after presentation of such request and require the Executive Officer to give notice to the members and to take such action as may be necessary to convene the meeting".

5. From a reading of the above provision it is clear that whenever a request is made by 1/3rd of the total number of members of the Panchayat the Adhyaksha is required to call for the special meeting within 15 days from the receipt of such request. Admittedly, the request of 1/3rd members of the Taluk Panchayat to call a special meeting to consider the motion of no confidence was received in the office of the Adhyaksha on 31-3-2003. From this date the Adhyaksha may call for the special meeting within 15 days. In the event if the Adhyaksha fails to call for the meeting within 15 days from the receipt of such request, the Upadhyaksha or 1/3rd of the total number of members may call special meeting for a day not more than 15 days after the presentation of such request. In the instant case, the Executive Officer without even waiting for 15 days within which the Adhyaksha has the power to call for the meeting has called for the meeting by his notice dated 8-4-2003. This notice calling for the meeting is contrary to the procedure provided for u/s 141(2)(a) of the Act. If that is so, the resolution if any on the basis of the said meeting is illegal.

6. It is nextly contended by Sri Nagarajappa, learned Counsel that the notice of meeting dated 8-4-2003 issued by the Executive Officer fixing the date of meeting as 16-4-2003 was received by the petitioner and others on 11-4-2003 and therefore there was no clear 7 days between the date of receipt of the notice

and the date fixed for special meeting and therefore according to him the entire proceedings are illegal as it is contrary to Section 141(2)(a) of the Act.

7. The total number of members of the Taluk Panchayat is 12. From the proceedings I see that 11 persons were present and no person has raised any objections regarding the validity of the notice. Further, it is also not the case of the petitioner that she was not aware of the date of meeting. If that is so, as held by the Supreme Court in the case of K. Narasimhiah Vs. H.C. Singri Gowda, , it is only an irregularity and not an illegality. Therefore, insofar as this submission is concerned, I find no substance.

8. In the result, writ petition is allowed.

The impugned resolution dated 16-4-2003 (Annexure-H) issued by the 2nd respondent, removing the petitioner from the post of Adhyaksha is quashed.