
(2003) 02 RAJ CK 0018
In the Rajasthan High Court
Case No : Civil Writ Petition No. 267 of 2003

Smt. Vidhu Bhargava	Vs	APPELLANT
State of Rajasthan and Others		RESPONDENT

Date of Decision : 21-02-2003

Acts Referred:

Rajasthan Panchayati Raj Act, 1994 — Section 37(4)

Citation : (2003) 2 RLW 1102 : (2003) 2 WLC 403

Hon'ble Judges : Gyan Sudha Misra, J

Bench : Single Bench

Advocate : A.K. Bhargava, for the Appellant; Dalip Singh and Manish Bhandari, for the Respondent

Final Decision : Dismissed

Judgement

Misra, J.—The petitioner had been elected as Pradhan of Panchayat Samiti Khairabad District Kola, who has been removed from this post by virtue of a no confidence motion which had been passed against her as the motion had been supported by the majority of the members of the Panchayat Samiti. The petitioner has challenged this no confidence motion on several grounds on which a show cause notice was issue to the respondents, in response to which, the respondents also are represented by their advocates.

2. Learned counsel for the petitioner Shri A.K. Bhargava first of all contended that no confidence motion which was passed against the petitioner is fit to be quashed and set aside as to no confidence motion had not been presented before the competent authority of the Panchayat Samiti, who was the Chief Executive Officer of Zila Parishad and in support of his contention he relied upon a judgment reported in Smt. Manjula Vs. State of Rajasthan and Others, delivered in the case of Smt. Manjula v. State of Rajasthan and Ors. wherein the learned Single Judge had been pleased to hold that if the notice was required to be given by the Executive Officer and the same was delegated to a lower authority, then there should be a gazette notification to that effect indicating delegation of the

authority to the Additional Chief Executive Officer. Elaborating on this, it was further contended by the petitioner's advocate that even if the Additional Chief Executive Officer had been delegated this authority without the notification in this regard, adequate reasons should have been recorded by the Chief Executive Officer before permitting him to conduct the meeting for the no confidence motion. Apart from this principal contention, it was also urged that the no confidence motion was signed thrice by some of the members and the number of the voters were shown to be 32 although only 23 in all were the members of the Panchayat Samiti.

3. The aforesaid contentions have been countered by the counsel for the respondents Shri Manish Bhandari and Shri Dalip Singh, who submitted that the contention to the effect that it should have been initiated by the Chief Executive Officer and not by any lower authority is not sustainable in view of Sub-section (4) of Section 37 of the Rajasthan Panchayat Raj Act, 1994 wherein amendment was introduced in the month of February 2000 laying down that in absence of the Chief Executive Officer on whom the authority is delegated, the Additional Chief Executive Officer can preside over the meeting and the reasons for doing so are not required to be recorded by the Chief Executive Officer.

4. It is thus clear that the first contention of Shri Bhargava to the effect that there was no order delegating the authority to the Additional Chief Executive Officer by the Chief Executive Officer which rendered the no confidence motion illegal and invalid as per the judgment of the learned Single Judge, is no longer the law which is legal and valid by virtue of the amendment introduced in the Act referred hereinbefore. Hence, the contention that the meeting holding no confidence motion by the Additional Chief Executive Officer was illegal and invalid as a result of which the no " confidence motion should be also held invalid, cannot be held sustainable. At this stage, Mr. Bhargava submitted that it is not the Additional Chief Executive Officer who had presided over the meeting but it was the Sub Divisional Officer who conducted the meeting, but even this argument is fit to be rejected since the amendment clearly states that any officer on whom the authority is delegated for conducting the meeting, is competent to conduct the proceeding.

5. In so far as the submission that the no confidence motion should be held illegal and invalid because one member has signed the motion thrice, is also not fit to be upheld for even if the three signatures of one member is counted as one, the motion would still be held to have been carried out since the required number of votes in support of the no confidence motion is not wanting and hence this argument also goes against the petitioner.

6. The counsel for the petitioner as a last straw on the camel's back further endeavored hard to impress upon this Court that the members supporting the candidate infact did not support the motion willingly and the person who initiated the no confidence motion was the instrumental person behind all this action. Even if this allegation were held to be true, it is difficult for this Court to accept it

especially in absence of any tangible material that the members were impressed upon by one person to get the motion supported and even if it is correct it is the boon or the bane of a democratic process that the majority is always granted and how that majority has been mustered is clearly an effort of the person who could impress upon that majority in support of the motion. This part of the contention thereafter also cannot go to the benefit of the petitioner.

7. Since no confidence motion could not be assailed on any of the grounds urged on behalf of the petitioner, it is difficult to entertain this writ petition. Accordingly, it stands dismissed at the admission stage also.