

(2000) 01 KAR CK 0108

In the Karnataka High Court

Case No : Writ Petition No's. 7352-7353 and 29265 of 1999

Sri. Aili Chandrappa and Another

APPELLANT

Vs

The Deputy Commissioner and Another

RESPONDENT

Date of Decision : 31-01-2000

Acts Referred:

Karnataka Local Authorities (Prohibition of Defection) Act, 1987 — Section 3, 3 (1) (b)

Citation : (2001) 2 KCCR 791

Hon'ble Judges : Tirath S. Thakur, J

Bench : Single Bench

Advocate : B.S. Keshava Iyengar for Chandrashekar P. Patil, in Writ Petition Nos. 7352-53 of 1999 and V.T. Rayaraddi, in Writ Petition No. 29265 of 1999, for the Appellant; K.N. Putte Gowda, Government Advocate for Respondent 1 in Writ Petition Nos. 7352-53 and 29265 of 1999, V.T. Rayaraddi, for Respondent 2 in Writ Petition Nos. 7352-53 of 1999, B.S. Keshava Iyengar for Chandrashekar P. Patil, for Respondent 2 in Writ Petition No. 29265 of 1999, for the Respondent

Judgement

Tirath S. Thakur, J.—By an order dated 28th of November, 1998 passed by the Deputy Commissioner, Koppal three members of the City Municipal Council, Gangavati viz., Smt. Huligamma, Sri Aili Chandrappa and Sri Veereshappa Aiholi were disqualified from the membership of the council on the ground of defection contrary to Section 3 of The Karnataka Local Authorities (Prohibition of Defection) Act, 1987. That order was questioned by the aggrieved Councillors in Writ Petitions Nos. 36022-24 of 1998, which were allowed by a Single Bench of this Court by order dated 5th of January, 1999 with a direction to the Deputy Commissioner to pass fresh orders after the parties were allowed to adduce evidence in support of their respective versions. A fresh order dated 4th of March, 1999 was then passed by the Commissioner, by which while dismissing the complaint against Smt. Huligamma, he disqualified the remaining two members viz., Sriyuths, Aili Chandrappa and Veereshappa Aiholi. Writ Petitions Nos. 7352 and 53 of 1999 assailing the said order have been filed by the disqualified members, while Writ Petition No. 29265 of 1999 has been filed by

the District Janata Dal Party challenging that part of the order, by which the complaint against Smt. Huligamma has been dismissed.

2. I have heard Counsel for the parties and perused the record. Several contentions were advanced by learned Counsel for the parties in support of their respective cases. It is however unnecessary to refer to or critically examine the said contentions except one, which is, in my opinion, sufficient to set aside the order under challenge. It was contended on behalf of the disqualified members that the order passed by the Deputy Commissioner did not satisfy the requirements of a valid order of disqualification, inasmuch as the same does not either discuss the evidence adduced by the parties or set out the reasons for the conclusion drawn. I find substance in that submission. The impugned order runs over 16 foolscap pages sufficient to create an impression as though the same has been made after a thorough consideration of the issues that fell for determination. A closer scrutiny of the order however belies that impression. The major part of the order is devoted to word by word reproduction of the written arguments submitted on behalf of the complainant and those received on behalf of the Councillors charged with defection. The first 10 pages thus account for nothing except what was filed before the Deputy Commissioner in the form of written submissions. The remaining part of the order refers to what the Commissioner has described as "additional six objections" filed by the Defendant-Councillors. While reproducing those objections, the Commissioner has given his one line answer to the same. The Deputy Commissioner has then proceeded to make what he describes as his "order", in which he has while accepting the reason advanced by Smt. Huligamma for her absence, held that the remaining two Councillors were absent from the meeting with the ulterior motive of defeating the official candidate set up by the Janata Dal party. The order is blissfully silent as to the questions that arose for consideration nor does it take up those questions one by one for answer by reference to the oral and documentary evidence assembled by the parties in the course of the enquiry. The order if I may say so betrays the Deputy Commissioner's inability to write a proper order of a quasi judicial nature involving the rights of the parties before him. While judgment writing may be an art in itself in which one needs to be initiated and trained by a constant effort towards perfection, yet statutory authorities conferred with the jurisdiction to decide matters involving determination of the issues of far reaching importance are even in the absence of any judicial background or training expected to acquaint themselves well by applying their minds properly and arriving at conclusions articulately. This the Deputy Commissioner has, in my opinion, failed to do in the instant case, the length of his order notwithstanding.

3. In a case involving disqualification of an elected member on the ground of violation of a party directive in terms of Section 3(1)(b) of the Act, apart from the competence of the person instituting the complaint or any other issues that may be raised in defence, three main questions fall for consideration. These are: (1) Whether the political party or a person or authority authorised by it had

issued a direction to its members, (2) Whether any such direction had been duly served upon the members concerned and (3) Whether the members or any one of them had acted contrary to any such direction. The entire evidence, which the parties may lead for or against a prayer for disqualification shall have to be viewed and discussed in the context of the above questions besides those that may be formulated by the adjudicating authority. The authority would while answering all such questions, be expected to support the conclusions that it may draw by reference to the material placed on record giving appropriate reasons why it is accepting one version in preference to the other. That is because, the order must show that the authority has applied its mind properly. This can be done by disclosing the mind, which in turn is best done by recording the reasons in support of the conclusions. A reasoned order apart from eliminating an arbitrary exercise of power helps a higher Court in determining the correctness thereof. Viewed thus, the order passed by the Deputy Commissioner in the instant case does not satisfy the requirements of a valid order. It neither identifies the issues that fell for consideration nor does it address itself to those issues by reference to the evidence adduced by the parties. The conclusions drawn are slipshod making it difficult for this Court to uphold the same.

These Writ Petitions accordingly succeed and are hereby allowed. The impugned order shall stand quashed and the matter remitted back to the Deputy Commissioner for a fresh determination of the issues in accordance with law keeping in view the observations made hereinabove. No costs.