
(2006) 10 OHC CK 0043
In the Orissa High Court

Sri Balmiki Pradhan

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 27-10-2006

Acts Referred:

Orissa Grama Panchayat Act, 1964 — Section 24(2)(4), 24(2)(h)

Citation : (2007) 103 CLT 164 : (2007) 1 OLR 8

Hon'ble Judges : P.K. Tripathy, J;M.M. Das, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Das, J.—The petitioner is the elected Sarpanch of Karapada Grama Panchayat in the district of Ganjam. Earlier the petitioner filed W.P.(C) No. 375 of 2005 praying therein to declare the provisions of Section 24 of the Orissa Grama Panchayat Act, 1964 (hereinafter referred to as "the Act") so far as it relates to the vote of "No Confidence Motion" against the Sarpanch to be ultra vires to the Constitution with other ancillary prayers.

2. This Court in the case of. Bhagabat Sahoo v. Collector, Angul Ors. 2005 (1) C.L.R. 606 while examining a similar question held Section 24(2)(c) to be intra vires and dismissed a batch of cases along with the said case. Accordingly, by order dated 21.7.2005 passed in W.P.(C) No. 375 of 2005 filed by the petitioner, this Court dismissed the writ application with the observation that the petitioner is not precluded to pursue his legal remedy on the consequence of the resolution passed on the "No Confidence Motion".

3. The petitioner has now preferred this writ application praying for issue of a writ of certiorari quashing Annexure-2, which is a subsequent notice issued by the Sub-Collector, Berhampur notifying that the meeting for considering the "No Confidence Motion" shall be held on 2.2.2005. The petitioner has further prayed for quashing the office order dated 22.8.2005 of the Block Development Officer, Digapahandi under Annexure-5 in which the said Block Development Officer

communicated the order dated 19.8.2005 of the Collector, Ganjam at Chhatrapur, directing the Naib-Sarpanch of Karapada Grama Panchayat to remain in-charge of the post of Sarpanch which was lying vacant since 18.8.2005 due to the "No Confidence Motion" passed against the Sarpanch-petitioner in the meeting held on 2.2.2005.

4. Learned Counsel for the petitioner relying on the provisions of Section 24(2) (h) of the Act contended that the said provision clearly bars adjournment of a meeting scheduled to be convened with regard to the vote of "No Confidence Motion". He further submitted that in the instant case, originally a notice was issued to hold the meeting on 15.1.2005 but the same was adjourned to 2.2.2005 as would be evident from the notice under Annexure-2. Therefore, he submitted that the resolution passed in such an adjourned meeting cannot be given effect to in view of the provisions of Section 24(2)(h) of the Act.

5. A counter affidavit has been filed by the Sub-Collector, Berhampur in which it has been stated that in exercise of power u/s 24(2)(f) of the Act, the Sub-Collector authorized one Kanhu Charan Parida, the Revenue Officer of his office who is a gazetted officer, to preside over the said meeting which was scheduled to be held on 15.1.2005. It is further stated that the said Kanhu Charan Parida submitted a leave application on 14.1.2005 seeking grant of leave on account of serious illness of his wife and he left for Bhubaneswar. Due to shortage of time, there was no scope for the Sub-Collector to appoint or depute any other officer to hold the meeting on 15.1.2005. As such, the meeting could not be held on that date and was deferred for which the notice under Annexure-2 was issued fixing 2.2.2005 to hold the meeting. It is further stated that the petitioner attended the meeting on 2.2.2005 and thus, he is estopped from contending that such a meeting is contrary to law.

6. The moot point involved in this case, therefore, is as to whether the meeting held on 2.2.2005 in which the vote of "No Confidence" was passed against the petitioner, is an adjourned meeting as contemplated u/s 24(2)(h) of the Act and as to whether such meeting is barred by the said provision or is contrary to the said provision of the Act. For better appreciation, Section 24(2)(h) of the Act is quoted hereunder:

24. Vote of no confidence against Sarpanch or Naib-Sarpanch - (1) xx xx xx

(2) In convening a meeting under Sub-section (1) and in the conduct of business at such meeting the procedure shall be in accordance with such rules, as maybe prescribed, subject however to the following provisions, namely;

(a) to (g) xxx xxx xxx

(h) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Sarpanch or Naib-Sarpanch, as the case may be, shall be taken up for consideration at the meeting.

7. A reading of the above provision clearly shows that no meeting for considering a vote of no confidence u/s 24 of the Act can be adjourned to a subsequent date.

8. Learned Addl. Government Advocate submitted that the meeting having not been held on 15.1.2005, the question of adjourning the meeting did not arise and, as a matter of fact, the meeting scheduled to be held on 15.1.2005 having not been able to be held due to exigency beyond the control of the Sub-Collector, the action of the Sub-Collector in issuing notice under Annexure-2 to hold the meeting on 2.2.2005 is neither illegal nor contrary to the above provision of the Act.

9. Neither the word "adjourned" nor the word "deferred" has been defined in the Act and the Rules framed thereunder. The word "adjournment" according to Black's Law Dictionary means a putting off or postponing of business or of a session until another time or place. The act of a Court, legislative body, public meeting, or officer, by which the session or assembly is dissolved, either temporarily or finally, and the business in hand dismissed for consideration, either definitely or for an interval. If the adjournment is final, it is said to be sine die. According to the said dictionary, the word "defer" means Delay; put off; remand; postpone to a future time. (Emphasis supplied).

According to the Concise Oxford English Dictionary (10th Edition), the word "adjourn" means break off (a meeting) with the intention of resuming it later and the word "defer" means put off to a later time; postpone.

10. In common parlance also, we are of the opinion that there is certain difference between an adjournment and a deferment. Adjournment always means any proceeding taken up and is shifted to a future date but deferring a proceeding to a future date is on account of inability to hold the proceeding/meeting on the scheduled date. It is also clear from the above provision of the Act that the bar imposed u/s 24(2)(h) of the Act is a bar for adjourning the meeting of "Vote of No Confidence". It is specifically provided that such a meeting cannot be adjourned. There is no bar for holding such a meeting on a subsequent date if the same has not been held at all on the date when it was scheduled to be held.

11. Since from the affidavits of the respective parties and the documents produced before us, we find that the meeting for "Vote of No Confidence" against the petitioner, which was originally fixed to 15.1.2005, was not held at all due to exigency beyond the control of the Sub-Collector and on account of such event, the notice under Annexure-2 to the writ petition was issued afresh fixing the said meeting to 2.2.2005, we are of the view that the meeting held on 2.2.2005 in which the vote of no confidence has been passed against the petitioner and charge of the post of Sarpanch has also been taken by the Naib-Sarpanch, was neither illegal nor contrary to the provisions of Section 24(2)(h) of the Act as the said meeting was not an adjourned meeting.

12. Considering the above, we are of the view that the meeting held on 2.2.2005

cannot be held to be illegal or contrary to the provisions of the Act. Hence the writ petition is devoid of merit and the same is dismissed. But w the circumstances, without costs.

P. K. Tripathy, J.

13. I agree.