

(2003) 11 KAR CK 0037
In the Karnataka High Court
Case No : Writ Petition No. 28122 of 2003

T. Palaksha

APPELLANT

Vs

The Assistant Commissioner, Chitradurga Sub-Division and
Others

RESPONDENT

Date of Decision : 13-11-2003

Acts Referred:

Karnataka Panchayat Raj Act, 1993 — Section 13 (2)

Citation : (2004) 1 KarLJ 595

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : P.H. Virupakshaiah, for the Appellant; H.B. Narayan, High Court Government Pleader for Respondent-1, N.Y. Guruprakash, for Respondents-3 and 4 and Omkaresh, for D.L. Jagadeesh, for Respondent-5, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—The petitioner assailing the correctness of the impugned order dated 12-6-2003 passed by the 1st respondent, vide Annexure-B has presented this writ petition.

2. The brief facts of the case are as under:

The petitioner is the elected member and Adhyaksha of the Grama Panchayat, 2nd respondent. When things stood thus, Upadhyaksha and three other members of the Grama Panchayat have gave a complaint to the 1st respondent on 12-11-2002. In pursuance of the said complaint, the 1st respondent has initiated proceedings and issued notice to the petitioner. After the receipt of the said notice, petitioner has filed his reply on 21-12-2002. After the receipt of the reply, 1st respondent had called for reports from the Secretary of the Grama Panchayat and the Junior Engineer of the Zilla Panchayat Engineering Division. In turn, the Secretary of the Grama Panchayat has submitted his report/documents on 20-12-2002 and on 16-1 -2003. The Junior Engineer has submitted his report on 21 -5-2003. The 1 st respondent, after considering the reports submitted by

both the Secretary of the Grama Panchayat and the Junior Engineer, after verifying the original records available on record and considering the objections filed by the petitioner, has passed the impugned order on 12-6-2003, vide Annexure-B, disqualifying the petitioner. Feeling aggrieved by the said order, the petitioner has presented this writ petition.

3. The principal submission canvassed by the learned Counsel for the petitioner is that, the 1st respondent has proceeded to pass the impugned order without affording sufficient opportunity to the petitioner to put forth his case. In pursuance of the notice issued by the 1st respondent, the petitioner has filed a detailed explanation/reply to the effect that, all the reports and documents are concocted one. The said objection made by the petitioner is not considered by the 1st respondent or given any specific finding in that regard in the impugned order. Further, he has submitted that neither the Panchayat has entrusted the work to his son nor he has received 45 packets/bags of rice from the Panchayat office. Therefore, he has submitted that the impugned order passed by the 1st respondent is illegal, arbitrary and it is liable to be set aside.

4. Per contra, the learned Counsel for the respondents 3 and 4, and 5 the learned Counsel for Government Pleader, inter alia, contended and substantiated the impugned order passed by the 1st respondent. Further, they have vehemently submitted that, in pursuance of the complaint given by the Upadhyaksha and other three members of the Panchayat, the 1st respondent has initiated the proceedings against the petitioner and after giving sufficient opportunity and considering the objections filed by the petitioner and by following the mandatory provisions of the Karnataka Panchayat Raj Act, the order has been passed by the 1st respondent. Under Sub-section (2) of Section 13 of the Karnataka Panchayat Raj Act. To substantiate their submission, the Counsel for the respondents 3 and 4 has filed detailed objections. Along with the objections, he has produced the acknowledgement given by the petitioner for having received 45 packets/bags of rice on 25-8-2002 wherein, the petitioner himself has put his signature and also the reports submitted by the Secretary and the concerned Engineer. Further, he has submitted that the 1st respondent, after considering the reply given by the petitioner, the reports submitted by the Secretary and the concerned Engineer and also taking into consideration the materials available on record, has passed the impugned order. Therefore, they have submitted that the petitioner has not made out any good grounds to interfere with the impugned order passed by the 1st respondent.

5. Heard the learned Counsel for the petitioner and the learned Counsel for respondents 3 and 4 and the Counsel for the 5th respondent. After going through the original records made available by the learned Government Pleader at threadbare, after evaluation of the entire materials available on record and perusing the impugned order passed by the 1st respondent, I do not find any error or illegality as such, committed by the 1st respondent, in passing the impugned order. There is no force in the submission made by the learned

Counsel for the petitioner that the reports and the documents are concocted behind the back of the petitioner and at no point of time he has received the cheque in the name of his son nor he has received rice from the Panchayat Office through the Secretary, and the same is liable to be rejected at threshold.

6. After careful perusal of the records made available by the Government Pleader, at Page 10, it is clear that, the petitioner himself has issued the receipt for having received 45 bags/packets of rice on 25-8-2002 and he has put his signature as "T. Palaksha". To satisfy and to inspire the confidence of the said signature, I have verified the same, with the signature of the petitioner in the vakalath in this petition. Both the signatures are tallying with each other and same person has signed both the signatures. Further, the Secretary has stated in unequivocal terms that, by force and threat, he has issued the cheque for a sum of Rs. 12,190/- in the name of Manjunath, as pointed out by the learned Counsel for the 5th respondent. He has produced the Xerox copy of the cheque issued in the name of the petitioner's son Manjunath on 7-10-2002 in No. 013778. The said cheque has been encashed by one Sri Manjunath and from the Xerox copy of the cheque issued by the Manager of the Bank, it is evident that the said cheque was issued in the name of one Manjunath, son of the petitioner and he has presented the same for encashment. These documents available on record and the reports submitted by the Secretary of the Grama Panchayat and the Junior Engineer attached to the Zilla Panchayat proves beyond reasonable doubt that the petitioner has exceeded his powers and issued the cheque and the explanation given by the petitioner in pursuance of the notice issued by the 1st respondent, do not inspire any confidence of this Court and the stand taken by the petitioner to substantiate his case is contrary to the materials on record. Therefore, I do not find any good grounds to interfere with the impugned order passed by the 1st respondent.

7. Having regard to the facts and circumstances of the case as stated above and taking into consideration the factual and legal aspect of the matter as stated supra, I do not find any good grounds to interfere with the impugned order passed by the 1st respondent. The interference at this stage is uncalled for.

For the foregoing reasons, the writ petition is dismissed.