

(1972) 04 MAD CK 0019

In the Madras High Court

Case No : Writ Appeal No"s. 463 of 1969 and 76 of 1972

The Revenue Divisional Officer and Another

APPELLANT

Vs

V.K. Ramanathan and Others

RESPONDENT

Date of Decision : 11-04-1972

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Panchayats Act, 1958 — Section 12, 155(1)

Citation : AIR 1974 Mad 155

Hon'ble Judges : K. Veeraswami, C.J;Raghavan, J

Bench : Division Bench

Judgement

K. Veeraswami, C.J.—Erumaipatti Panchayat Union Council consists of 29 members, of whom 25 are members by reason of their being

presidents of Panchayats and the remaining four have been co-opted. This is in accordance with the proviso to sub-section (1) of Section 12 of the

Tamil Nadu Panchayats Act, 1958. On 5-5-1966, the State Government, by G.O. No. 1164, Rural Development and Local Administration, in

purported exercise of their power u/s 155(1)(a) , dissolved the Panchayat Union Council with effect from that date and directed that it would be

reconstituted in terms of sub-section (3) of that Section with effect from 5-5-1967. On 13-5-1967, the Revenue Divisional Officer, who had acted

as Special Officer in the interregnum, issued notices for the purpose of electing a Chairman. One of the co-opted members of the erstwhile

Panchayat Union Council filed petitions on 25-5-1967 under Article 226 of the Constitution for prohibition preventing the Revenue Divisional

Officer from holding a meeting for the purpose of electing a Chairman and for a direction to the Revenue Divisional Officer that he should permit

the erstwhile co-opted members to participate in any meeting for electing a Chairman. The petitions were allowed by Kailasam, J., and W.A. No.

463 of 1969 arises therefrom. In the other appeal W.A. No. 76 of 1972 too, a similar question arises.

2. The question we are called upon to decide is whether the co-opted members survive the dissolution of the Panchayat Union Council so that,

when it is re-constituted, they continue to be co-opted members. In our opinion, the question does not admit of any answer; but on member of the

Panchayat Union Council will survive the dissolution. As a matter of fact, sub-section (3) of Section 155 itself is clear on the point. It says that, on

the date fixed for dissolution of a Panchayat under sub-section (1), all its members as well as its President and Vice-President shall forthwith be

deemed to have vacated their offices as such. The sub-section does not say that, when the members vacate their office on dissolution, they

continue to be members of the Panchayat Union Council. It is true that the 25 Presidents become members of the Panchayat Union Council. That

is not because they have not vacated their offices under sub-section (3) of Section 155 following dissolution of the Panchayats, but because the

Act provides that the Panchayat Union Council shall consist of Presidents of Panchayats. It follows therefrom that, so long as the 25 members

continue to be Presidents of Panchayats by virtue of their offices, they are entitled automatically to be members of the reconstituted Panchayat

Union Council. In other words, they are ex-officio members. That is to say, by virtue of their offices as Presidents of Panchayat, they become

members of the Panchayat Union Council. It cannot be said that they continue to be members of the Panchayat Union Council, notwithstanding the

dissolution. Ramaprasad Rao, J., has taken the view that, because the definition of the term "member" also includes a co-opted member, it follows

therefrom that when the Panchayat Union Council was reconstituted the co-opted members should be regarded as members of the Panchayat

Union council. We are unable to accept this view. Only, if and to the extent the co-opted members are entitled to have their status, they will be

included in the expression "members". Once there is a dissolution, they shall be deemed to have vacated their offices. It means that they are no

longer co-opted as members of the reconstituted Panchayat Union Council, by virtue of their being ex-officio members. On that view, the appeals

are allowed. No costs.

3. Appeal allowed.