

(1995) 12 KAR CK 0025
In the Karnataka High Court
Case No : Writ Petition No. 44439 of 1995

V. Manjunath

APPELLANT

Vs

Assistant Commissioner, Bangalore North Sub-division and
Another

RESPONDENT

Date of Decision : 21-12-1995

Acts Referred:

Karnataka Panchayat Raj Act, 1993 — Section 49

Citation : (1997) 2 KarLJ 456

Hon'ble Judges : Tirath S. Thakur, J

Judgement

1. The petitioner is the Adhyaksha of the Harohalli Grama Panchayath against whom a "no-confidence motion" was moved on the 12th of September, 1995 discussed by the Panchayath in its meeting held on the 15th of September, 1995. From the proceedings of the said meeting, Annexure-B to the writ petition is apparent that the motion was defeated. All the same, a second motion was moved against the petitioner on the basis whereof, the Assistant Commissioner has convened a meeting of the Panchayath on 28th December, 1995. Aggrieved, the petitioner has filed the present writ petition to contend that the proposed meeting convened by the Assistant Commissioner is in violation of the provisions of Section 54 of the Karnataka Panchayath Raj Act, 1993, as the same tantamounts to modifying or cancelling the resolution passed by the Panchayath on 12th December, 1995, within a prohibited period of six months.

2. I have heard Mrs. Geetha Menon, learned Counsel for the petitioner.

3. No-confidence motions against the Adhyaksha and Upadhyaksha of Grama Panchayats are regulated by Section 49 of the Act which provides that every Adhyaksha or Upadhyaksha shall be deemed to have vacated his office if a resolution expressing want of confidence in him is passed by a majority of not less than two-thirds of the total number of members of the Grama Panchayat at a meeting specially convened for the purpose. Section 49 does not in itself contain any prohibition against a fresh motion of no-confidence being made

within a period of six months of the motion moved earlier. The said provision being a self-contained Code regulating no-confidence motions, the bar contained in Section 54 against the modification or cancellation of a resolution has no application to no-confidence motions covered by Section 49. That apart, all that Section 54 provides is that no resolution of the panchayath shall be moved or cancelled within six months except by a resolution passed by not less than half of the total number of person of the panchayat. Assuming therefore that the passing of a no-confidence motion against the petitioner in the proposed meeting to be held on 28th December, 1995, would amount to modification, or cancellation of any previous resolution, it is apparent that such a modification or cancellation is permissible for the reason that the number of persons who can pass a no-confidence motion in terms of Section 49 is required to be not less than two-thirds of the number of members of the panchayat. Viewed from any angle, therefore, the meeting convened by the Assistant Commissioner in terms of the impugned notice does not appear to be improper or inviolation of any provision of the Act so as to warrant interference of this Court. The writ petition fails and the same is dismissed.