
(2003) 09 AP CK 0027

In the Andhra Pradesh High Court

Case No : Writ Petition No. 19094 of 2003

V. Nandam Goud

APPELLANT

Vs

Government of A.P. and Another

RESPONDENT

Date of Decision : 16-09-2003

Acts Referred:

Andhra Pradesh Panchayat Raj Act, 1994 — Section 245, 245(2)

Citation : (2003) 6 ALD 246 : (2004) 2 ALT 336

Hon'ble Judges : Ghulam Mohammed, J

Bench : Single Bench

Advocate : S. Bhooma Goud, for the Appellant; Government Pleader for Panchayat Raj, for the Respondent

Final Decision : Dismissed

Judgement

Ghulam Mohammed, J.—This writ petition is filed seeking writ of mandamus declaring the action of second respondent in passing the "Motion of No Confidence" vide Proceedings dated 27-8-2003, as illegal, arbitrary and violative of Section 245(2) of the A.P. Panchayat Raj Act.

2. The petitioner claims to be the elected President of Mandal Parishad Domkonda Mandal, Nizamabad District and the Mandal Parishad, Domakonda, consists of 14 members. The election to MPTC members was held on 17-7-2001 and the petitioner was declared elected as President of Domakonda Mandal Parishad on 22-7-2001. While so, it is stated that nine members of the Mandal Parishad made a representation to the second respondent for moving "No Confidence Motion" against the petitioner and subsequently a meeting of the Parishad was convened on 27-8-2003 to consider the "No Confidence Motion". The "No Confidence Motion" was declared to have been passed as nine members out of total members numbering 14 were voted in its favour.

3. Learned Counsel for the petitioner contends that ten out of fourteen members have to vote in favour of the said motion in order to constitute two-thirds

majority and the two-thirds majority of the members comes to 9.33. Therefore, the fraction of 0.33 and above shall be taken as one and in such case, ten members are required to pass a "No Confidence Motion".

4. Learned Counsel for the petitioner relying on the decision of this Court in *Gayam Eswaramma Vs. Government of A.P. and others*, , submits that the "No Confidence Motion" is not supported by two-thirds majority and as such, the vote of no-confidence is liable to be aside.

5. Learned Government Pleader for Panchayat Raj has drawn my attention to Section 245 of A.P. Panchayat Raj Act and to the Explanation, which was introduced vide A.P. Act 8 of 2000 with effect from 28-4-2002. The Explanation reads as follows:

"For the purposes of this section, in the determination of two-thirds of the total number of members, any fraction below 0.5 shall be ignored and any fraction of 0.5 or above shall be taken as one."

6. A reading of the said Explanation clearly shows that while determining the two-thirds of the total number of members, if the fraction is below 0.5, the same shall be ignored and if it exceeds 0.5, the same shall be taken as one. In the instant case, the two-thirds of the total members numbering fourteen comes to 9.32 and thus, two-thirds majority comes to nine members. Admittedly, nine members voted in favour of "No Confidence Motion". In the facts of the case, I am convinced that the basic requirements of "No Confidence Motion" are fulfilled particularly in view of the said Explanation u/s 245 of the Act.

7. For the aforesaid reasons, the writ petition is meritless and it is accordingly dismissed at the state of admission.