

(1971) 12 MP CK 0012

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 112 of 1971

Vasant Rao Krishna Rao Kinhekar

APPELLANT

Vs

Gram Panchayat, Lanji and Others

RESPONDENT

Date of Decision : 22-12-1971

Acts Referred:

Madhya Pradesh Panchayat Act, 1962 — Section 31

Citation : AIR 1972 MP 83 : (1972) JLJ 179 : (1972) 17 MPLJ 240

Hon'ble Judges : Bishambhar Dayal, C.J;R.J. Bhave, J

Bench : Division Bench

Advocate : B.C. Verma, for the Appellant; Ku. Rama Gupta, for No. 1 and J.P. Bajpai, Dy. A.G. for Nos. 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Bhave, J.

The petitioner, who was Sarpanch of the Gram Panchayat, Lanji, district Balaghat. has filed this petition under Article 226 of the Constitution for a writ of certiorari for quashing the resolution of no-confidence dated 30-1-1971 passed by the Panchas of the said Gram Panchayat.

On 26-10-1970, a no-confidence motion was moved against the petitioner, but it was defeated. On 9-1-1971. a fresh requisition notice was served for moving a motion of no-confidence against the petitioner. A meeting was held on 30-1-1971 when the no-confidence motion was passed. The main contention of the petitioner is that the second resolution of no-confidence could not have been moved within six months of the first no-confidence motion defeated on 26-10-1970. Reliance is placed on Section 31 of the Madhya Pradesh Panchayats Act. 1962, which reads as under:

"31. No subject once finally disposed of by Gram Panchayat shall be reconsidered by it within six months unless the recorded consent of not less than three-fourths of its Panchas has been obtained thereto, or unless the prescribed authority has

directed its reconsideration."

The submission is that the expression "No subject once finally disposed of" includes a no-confidence motion as well. What is prohibited under this section is reconsideration of the same subject. When a no-confidence motion is moved against any person, it is based on certain allegations available at a particular time and when a second no-confidence motion is moved on some other allegations, it cannot be said that the same subject-matter was brought for reconsideration. We are, therefore, of the opinion that this section in terms does not refer to no-confidence motion.

Apart from this, there are other reasons why this contention cannot be accepted. Chapter III of the M.P. Panchayats Act, 1962, consists of two parts, namely, constitution and conduct of business. In the first part is included Section 24 which, provides the procedure for moving no-confidence motion. Rules are also made under that section. The section read with the Rules provides a complete and independent procedure as compared to other resolutions that can be passed by the Gram Panchayat in the conduct of its business. In the second part of Chapter III, which is styled as Conduct of Business, Section 29 provides that rules can be made for the procedure to be followed at a meeting of the Gram Sabha and Gram Panchayat. Section 30 makes provisions for how and when and the manner in which the meetings of the Gram Panchayat can be held or called. Then comes Section 31 which provides that no subject once finally disposed of by the Gram Panchayat should be allowed to be reconsidered within six months. It is thus obvious that Section 31 refers to the meetings of the Gram Panchayat called for the conduct of business and it does not refer to the special meeting for no-confidence motion specially provided for. Democratic process requires that a person having lost confidence of the elected body cannot be allowed to function as its president or chairman. Allowing such a person to occupy the post for a period of six months even when he has lost confidence is contrary to the well-established notions of democracy. We are therefore, of the opinion that the Legislature while enacting Section 31 could not have intended to set at nought the said democratic process.

For the aforesaid reasons, we are of opinion that there is no substance in the contention of the petitioner that no-confidence motion could not have been moved against him within six months. The petition, therefore, fails and is dismissed with costs. Hearing fee is fixed at Rs. 100/- to be equally divided between the first and the third respondents. The remaining amount of security after deduction of costs shall be refunded to the petitioner.