
(1999) 06 GAU CK 0042
In the Gauhati High Court
Case No : WP (C) No. 778 of 1999

Y. Budha Singh and Others	Vs	APPELLANT
State of Manipur and Others		RESPONDENT

Date of Decision : 24-06-1999

Acts Referred:

Manipur Municipalities Act, 1994 — Section 221, 24, 24(2), 25

Citation : (2005) 1 GLR 328

Hon'ble Judges : A.K. Patnaik, J

Bench : Single Bench

Advocate : N. Kotiswar Singh, for the Appellant; Lalit Kumar and Shyamkishore Singh, for the Respondent

Judgement

A.K. Patnaik, J.—Heard Mr. Kotiswar Singh, learned counsel for the petitioner, Mr. Lalit Kumar for the respondent Nos. 2, 3 and 4 and Mr. Shyamkishore Singh, Sr. GA, Manipur, for the respondent No. 1.

2. The nineteen petitioners are all Councillors of the Imphal Municipal Council and their case in the writ petition is that the office of the Chairperson of Imphal Municipal Council fell vacant and to fill up the said vacancy, the Executive Officer of Imphal Municipal Council circulated notice dated 15.5.1999 to all the Councillors to hold a meeting at 1 AM on 19.5.1999 in the Meeting Hall of the Imphal Municipal Council for electing a new Chairperson of Imphal Municipal Council. Pursuant to the said notice, the Councillors arrived at the Meeting Hall of the Imphal Municipal Council for electing a new Chairperson but they found that by a notification dated 19.5.1999 issued by the Executive Officer of Imphal Municipal Council, the Councillors were informed that the meeting for electing a new Chairperson of Imphal Municipal Council was postponed pursuant to Government of Manipur letter dated 18.5.1999 and the Deputy Commissioner, Imphal West letter dated 18.5.1999. By the letter dated 18.5.1999, Government of Manipur, Secretariat of Mahud Department, the Deputy Commissioner, Imphal West has been intimated that the Government has decided to postpone the

meeting to elect a new Chairperson and Vice-Chairperson u/s 221 of the Manipur Municipalities Act, 1994 (for short "The Act"). Aggrieved, the petitioner have moved this Court in the present writ petition for appropriate relief.

3. Mr. Kotiswar Singh, learned counsel for the petitioners, submitted that under the provisions of sections 24 and 25 of the Act, a vacancy in the office of the Chairperson of Municipal Council on account of any reason other than expiry of the term of the office of the Chairperson has to be filled up within 21 days from the date of occurrence of the vacancy and that the Councillors are to elect one among themselves as the Chairperson and Vice-Chairperson of the Municipal Council. According to Mr. Kotiswar, therefore, it is the Councillors of the Imphal Municipal Council who are to elect the Chairperson in case of vacancy in the office of the Chairperson and in the instant case since the vacancy has arisen on the resignation of Shri I Bira Singh on 9.4.1999 as notified by notification dated 29.4.1999, the Councillors were fully empowered under the provisions of Section 24 of the Act to elect a new Chairperson and that the Government has acted contrary to the provisions of the said Act by postponing the election of the new Chairperson of the Imphal Municipal Council by its impugned letter dated 18.5.1999.

4. Mr. Shyamkishore Singh, Sr. GA, Manipur, on the other hand, relied on the provisions of Section 221 of the Act to show that the Government had the power to pass any order or do anything in case of any difficulty and submitted that it is in exercise of this power that the Government has postponed the election of new Chairperson and Vice-Chairperson under the impugned letter dated 18.5.1999. He further submitted that since under Sub-section (2) of Section 24 of the Act, a period of 21 days is allowed for filling up the vacancy in the office of the Chairperson of the Municipal Council, the Government is fully empowered u/s 221 of the Act to appoint any Councillor as an interim Chairperson till a new regular Chairperson is elected and it is in exercise of this power, the Government issued the order dated 29.4.1999 appointing Shri I Bira Singh, Councillor of Ward No. 16 as interim Chairperson of the Imphal Municipal Council.

5. In this writ petition, the petitioners have not challenged the order dated 29.4.1999 of the Government of Manipur appointing Shri I Bira Singh, Councillor of Ward No. 16 as interim Chairperson of the Imphal Municipal Council. The petitioners have only prayed for quashing the letter dated 18.5.1999 of the Government of Manipur, Secretariat of Mahud Department and the notification dated 19.5.1999 issued by the Executive Officer, Imphal Municipal Council, postponing the meeting for election of a new Chairperson and Vice-Chairperson of the Imphal Municipal Council. Sections 24 and 25 of the Act which provide for election of Chairperson and Vice-Chairperson of Municipal Council and Section 221 of the Act which vests powers on the Government to remove difficulties are extracted hereinbelow.

"24(1) Save as otherwise provided in this Act, the Councillors at the first meeting of the Council to be called at the instance of the Deputy Commissioner after a

general election shall elect one of them to be the Chairperson in accordance with rules made in this behalf.

(2) Such election shall take place within twenty-one days from the date of notification of the result u/s 22; and in the case of vacancy in the office of the Chairperson on account of any reasons other than expiry of the term of office of the Chairperson within twenty-one days from the date of the occurrence of the vacancy.

(3) The State Government shall appoint a person to preside over the meeting and for the purpose of the business mentioned in Sub-section (1).

25. The Councillors shall, either at the meeting mentioned in Sub-section (1) of Section 24 or at subsequent meeting elect one among themselves other than the Chairperson elected under Sub-section (1) of Section 24 to be the Vice-Chairperson.

221. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order do anything not inconsistent with the provisions thereof which appears to it to be necessary or expedient for the purpose of removing the difficulty."

A bare reading of Sub-section (1) of Section 24 quoted above would show that the Chairperson is to be elected by the Councillors in accordance with the rules made in that behalf and a reading of Sub-section (2) of Section 24 would further show that in case of vacancy in the office of the Chairperson on account of any reason other than expiry of the term of the Chairperson, such election of Chairperson has to be taken place within 21 days from the date of occurrence of they vacancy. Similarly, Section 25 of the Act quoted above would show that the Vice-Chairperson is also to be elected by the Councillors either at the meeting convened for the purpose of electing a Chairperson or at any subsequent meeting. Sub-section (3) of Section 24 of the Act provides that the State Government shall appoint a person to preside over the meeting and for the purpose of business mentioned in Sub-section (1) of Section 24. Thus under the provisions of Sections 24 and 25 of the . Act, the Chairperson and the Vice-Chairperson of Municipal Council are to be elected by the Councillors and the State Government's limited role is to appoint a person to preside over the said meeting and for the purpose of business mentioned in Sub-section (1) of Section 24 of the Act. It is further clear from the provisions of Sub-section (2) of Section 24 of the Act that election to a vacancy in the office of the Chairperson has to take place within 21 days from the date of occurrence of the vacancy. Section 221 of the Act, however, confers powers on the State Government to remove difficulties in giving effect to the provisions of the Act but the said section expressly states that the Government cannot under the said Section 221 pass any order or do anything inconsistent with the provisions of the Act. Since Sub-section (2) of the Section 24 of the Act expressly provides that an election to a vacancy in the office of the Chairperson of Municipal Council has to be within 21

days from the date of occurrence of the vacancy, the State Government cannot in exercise of its power u/s 221 of the Act postpone the election to the vacancy of the office of the Chairperson of Municipal Council beyond the period of 21 days as such postponement by the Government would be inconsistent with the provisions of Sub-section (2) of Section 24 of the Act.

6. For the reasons stated above, the impugned letter dated 18.5.1999 of the Government of Manipur, Secretariat Mahud Department, postponing the meeting for election of new Chairperson and Vice-Chairperson of Imphal Municipal Council u/s 221 of the Manipur Municipalities Act, 1994 is quashed, consequently, the impugned notification dated 19.5.1999 issued by the Executive Officer, Imphal Municipal Council pursuant to the impugned letter dated 18.5.1999 of the Govt. of Manipur Secretariat Mahud Department is also quashed. The Councillors of the Imphal Municipal Council will now hold the meeting for election of new Chairperson and Vice-Chairperson of Imphal Municipal Council in accordance with the said provisions of Sections 24 and 25 of the Act and rules made thereunder. Within 5 days from the date of receipt of a certified copy of this order, the Executive Officer, Imphal Municipal Council will send notices to the Councillors of Imphal Municipal Council for holding a meeting to elect new Chairperson and Vice-Chairperson of Imphal Municipal Council within 15 days from the date of receipt of the certified copy of this order. Shri I Bira Singh who has been appointed as interim Chairperson of the Imphal Municipal Council by the order dated 29.4.1999 of the State Government of Manipur, will preside over the meeting and election of the new Chairperson and Vice-Chairperson of the Imphal Municipal Council.

7. Subject to aforesaid direction, the writ petition stands disposed of.