

B.V. Krishnareddy Vs. the State of Karnataka, Represented by Its Secretary and Others

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Court : Karnataka

Decided On : Mar-06-2014

Judge : A.N. Venugopala Gowda

Appeal No. : Writ Petition No. 9182 of 2014 (LB-RES)

Appellant : B.V. Krishnareddy

Respondent : The State of Karnataka, Represented by Its Secretary and Others

Judgement :

(Prayer: This petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the notice dated 18.02.2014 issued by the 2nd respondent vide Annexure-C.)

1. This petition has been filed to quash a notice dated 18.02.2014, as at Annexure-C, issued by the Executive Officer, Taluka-Panchayat, Si inivasapura, Kolar District (for short 'the Panchayat'), in convening a special meeting of the Panchayat, on 24.02.2014, to consider the No- Confidence Motion, presented by respondents 3 to 11 against the petitioner.

2. Material facts of the case are that the petitioner is Adhyaksha of the Panchayat, which has 17 elected members Respondents 3 to 11, the elected members of the Panchayat, gave notice dated 03.02.2014 to the Executive Officer expressing their

intention to move the Motion of No- Confidence as against the petitioner. The same having been put up for orders, on the office note, the petitioner endorsed that he having submitted his resignation on 11.02.2014, if necessary, the meeting be convened on 28.02.2014. The Executive Officer having given the special meeting notice dated 18.02.2014 vide Annexure-C, to Adhyaksha, Upadhyaksha and members of the Panchayat, fixing the meeting at 11-00 a.m., on 24.02.2014, this writ petition was filed mainly on the ground that there is violation of the provision under S.141(2)(a) of the Karnataka Panchayat Raj Act, 1993 (for short 'the Act').

3. Sri Y.R. Saaashiva Reddy, learned advocate, contended that as per S.141(2)(a), the Adhyaksha is required to call for the meeting on any motion signed by one-third of the total number of the members of the Panchayat and in the instant case, even before expiry of 15 days' period from the date the requisition was submitted by the members of the Panchayat, the 2nd respondent has called for the meeting and therefore, there being illegality, interference is called for.

4. Sri H.T. Narendra Prasad, learned AGA and Sri. Reuben Jacob, learned advocate for respondents 3 to 11, on the other hand, contended that the majority of the members of the Panchayat having moved the No-Confidence Motion against the petitioner, instead of convening the special meeting to consider the request, the petitioner adopted methods to defeat the provisions of law and continue to hold on to the post, despite having lost the confidence by majority of the elected members and thereby, defeating the democratic principles. They further submitted that on account of the motivated and undemocratic acts to scuttle the lawful process, the petitioner is not entitled to seek remedy under the writ jurisdiction of this Court,

5. Perused the writ record and considered the rival contentions.

6. Petitioner was elected as Adhyaksha of the Panchayat on 19.10.2012. He had submitted resignation to the Deputy Commissioner, Kolar on 20.12.2013. The resignation was withdrawn on 03.01.2014. Respondents 3 to 11 presented a Motion of No Confidence against the petitioner on 03.02.2014 before the Executive Officer of the Panchayat. The same having been put up for orders, the

petitioner has endorsed as follows:

(œKANNADAM?)

7. Petitioner submitted a resignation to the post of Adhyaksha, for the second time, on 11.02.2014. The Executive Officer gave the special meeting notice on 18.02.2014 vide Annexure-C. The said notice reads as follows:

(œKANNADAM?)

This writ petition was filed on 19.02.2014. After hearing the learned Additional Government Advocate and the 2nd respondent, who appeared in person, along with the records, the impugned notice as at Annexure-C was stayed.

8. The resignation submitted on 11.02.2014 having again been withdrawn by the petitioner, on 22.02.2014, respondents 3 to 11 have submitted a representation on 25.02.2014, under S.141(2)(a) of the Act, to convene the special meeting of the Panchayat on 07.03.2014, to consider the Motion of No-Confidence against the petitioner.

9. S.141(2)(a) of the Act provides the power for Adhyaksha, whenever he thinks fit, and upon the written requisition of not less than one-third of the total members and on a date within 15 days from the date of such request to call a special meeting. The request shall specify the object for which the meeting is proposed to be called. If the Adhyaksha fails to call the special meeting, the Upadhyaksha or one-third of the total number of members may call the special meeting, for a day not more than 15 days after presentation of such request and request the Executive Officer to give notice to the members and take such action as may be necessary to convene the meeting.

10. In the instant case, respondents 3 to 11, constituted more than one-third members of the Panchayat and presented No-Confidence Motion against the petitioner and requested the 2nd respondent to take necessary action. The 2nd respondent placed the matter before the petitioner on 04.02.2014 and sought the order. The petitioner made an endorsement, extracted supra. The 2nd respondent, without even waiting for 15 days' period, within which the Petitioner-Adhyaksha

has the power to call for the meeting, gave the notice on 15.02.2014 and called the special meeting to be held on 24.02.2014. The impugned notice, convening the meeting to be held at 11.00 a.m., on 24.02.2014 is contrary to provision under S.141(2)(a) of the Act.

11. Sri H.T. Narendra Prasad and Sri Reuben Jacob, conceded that the action of the 2nd respondent is not as per the procedure provided under S.141(2)(a) of the Act. Consequently, there being illegality committed by the 2nd respondent in giving the special meeting notice dated 18.02.2014, Annexure-C cannot be sustained.

12. Srinivasapura Taluka-Panchayat has 17 elected members. Respondents 3 to 11 submitted a requisition dated 03.02.2014 to the 2nd respondent to convene the special meeting to consider their request to move the Motion of No-Confidence against the petitioner. The petitioner having submitted resignation to the post of Adhyaksha on 20.12.2013, and withdrawn the same on 03.01.2014 and after respondents 3 to 11 submitted the requisition-dated 03.02.2014, when order was sought, the petitioner having indicated that there is no need to fix the meeting date in view of his resignation and if necessary the meeting be called on 28.02.2014, this writ petition was filed on 19.02.2014 and after the interim order of stay of the impugned notice was passed on 21.02.2014, the petitioner has withdrawn his resignation on 22.02.2014. The petitioner, in order to defeat the lawful course of action adopted by the respondents 3 to 11 and to stick on to the post of Adhyaksha, prima facie, appears to have adopted 'trick and stratagem' of submitting the resignation, on the second occasion i.e., on 11.02.2014 and has withdrawn the same on 22.02.2014, in view of passing of the interim order of stay in this petition on 21.02.2014. The resignation of petitioner on 11.02.2014 appears to be pretence. The petitioner having been elected as Adhyaksha by majority of the members of the Panchayat, who have voting right and if majority of the elected members of the Panchayat have expressed loss of confidence, the petitioner cannot continue to hold the post, by adopting methods, such as submitting the resignation, only to defeat the Motion of No-Confidence presented and withdrawing the resignation soon after an interim order of stay was passed. If majority of the members of the Panchayat have lost confidence in the petitioner, the course open in the democracy is to face the Panchayat and prove the majority

and not by adopting the methods 10 scuttle the Motion moved by the majority of the members of the Panchayat. The petitioner's actions noticed supra, are undemocratic.

In the result, the writ petition is allowed in part and the impugned special meeting notice, as at Annexure-C, being contrary to the provision under S.141 (2) (a) of the Act, is quashed. The petitioner having adopted the mean methods and there being undemocratic acts, to defeat the requisition submitted by respondents 3 to 11 vide Annexure-A, the petitioner shall call the special meeting of the Panchayat within 21.03.2014.

Ordered accordingly.

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