

Nathmal Vs. the State and ors.

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Court : Rajasthan

Decided On : Sep-08-1989

Reported in : AIR1990Raj68; 1989(2)WLN476

Judge : M.C. Jain, Ag. C.J. and; J.R. Chopra, J.

Acts : Rajasthan Panchayat Act, 1953 - Sections 19

Appeal No. : Civil Writ Petn. No. 3931 of 1989

Appellant : Nathmal

Respondent : The State and ors.

Advocate for Def. : L.S. Udawant, Adv.

Advocate for Pet/Ap. : K.L. Jasmatiya, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

1. By this writ petition, the petitioner challenges the validity of Section 19 of the Rajasthan Panchayat Act, 1983 which makes a provision for vote of no-confidence against Sarpanch and Upsarpanch. Section 19 provides that anyone of the panchas of a Panchayat can move no-confidence motion against Sarpanch or Upsarpanch after giving notice. The vote of no-confidence motion can be passed

by 3/4th of the total members of the Panchayat Counsel for the petitioner submits that Section 19 of the Act is violative of principle of democracy, as Sarpanch is elected by consent of the Panchayat Circle, he is not elected by the elected Panchas and so no provision can be enacted for passing of any no-confidence motion against such a person who has been elected by the Panchayat Circle directly. We are unable to agree with the aforesaid submission of the learned counsel for the petitioner. It cannot be said that the provisions contained in Section 19 is violative of the principles of democracy. It may be stated that all the panchas are elected from their respective wards and they are equally the representatives of the electors of the Wards except the nominated members and vote of no-confidence can be passed by 3/4th total members of the Panchayat. This is an important safeguard provided in the provision. Counsel for the petitioner submitted that ever after passing of no-confidence motion, the Sarpanch may again return after election as Sarpanch. Even if that be so, still so far as the provision contained in Section 19 is concerned, it cannot be said to be undemocratic. Besides what has been stated above, it is also significant that for the day to day administration, the Sarpanch must enjoy confidence of the members of the Panchayat else the administration of the Panchayat would be impossible. So when 3/4th members of the Panchayat have no confidence of the Sar-panch then in that situation, it would be undemocratic to continue and keep a sarpanch as head of the Panchayat. So looking from any point, in our opinion Section 19 is not violative of the principles of democracy. Thus, we don't find much force in the submission of the learned counsel for the petitioner that Section 19 is violative of the principles of democracy. No other point has been raised for consideration. The wit petition has no force so it is hereby dismissed.