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**Court :** Rajasthan

**Decided On :** Feb-19-1977

**Reported in :** 1977WLN(UC)56

**Judge :** A.P. Sen, Actg. C.J.

**Appeal No. :** S.B. Civil Writ Petition Nos. 3340/1974 and 446 of 1975

**Appellant :** Samela Ral

**Respondent :** The Additional District Development Officer and ors.

**Disposition :** Petition dismissed

**Judgement :**

A.P. Sen, Actg. C.J.

1. These two writ petitions involve common question and, therefore, they are disposed of by this common order.

2. The petitioner was elected as Sarpanch of the Gram Panchayat, Ren on 10-5-1968. The Gram Panchayat consisted of 11 Panchas and a Sarpanch i.e. 12 in all. At a meeting held on 7-12-1972 the Gram Panchayat by its resolution No. 3 expressed their no-confidence in the petitioner. The motion of no-confidence was carried unanimously. As a result, the office of the Sarpanch became vacant under Section 19(2) of the Rajasthan Panchayat Act, 1953. The petitioner by these two

writ petitions challenges the validity of the motion of no-confidence on the ground that three of the Panchas viz., Nazira, Razak and Bhikaram having absented themselves from the five consecutive meetings of the Panchayat held on 29-10-1972, 5-11-1972, 12-11-1972, 19-11-1972 and 26-11-1972, they ceased to be Panchas under Section 17(2) of the Act and, therefore, their participation at the meeting held on 7-12-1972, which passed the motion of no-confidence was rendered invalid. On 17-12-74, this Court in S.B. Civil Writ Petition No. 3340 of 1974 declined to grant an ad-interim writ in the terms prayed for. It directed that the petitioner was not functioning as Sarpanch and the work shall be carried on by the Up-Sarpanch, but the respondents No. 1 and 2 were restrained from holding a fresh election for the office of the Sarpanch till the disposal of the writ petition.

3. The petitioner had, therefore, to hand-over the charge of his office to the Up-Sarpanch. It, therefore, appears that the petitioner is no-longer interested in these proceedings, as no one appeared in his behalf at the hearing.

4. The short point involved in these writ petitions is whether the three Panchas viz., Nazira, Razak, and Bhikaram incurred an disqualification under Section 17(2) of the Act and, therefore, the quorum at the meeting held on 7-12-1972 when the motion of no-confidence was passed, was not there. Section 19(2) prescribes for a quorum of 3/4th of the total number of members of the Panchayat for a motion of no-confidence against the Sarpanch to be effective. If the Sarpanch does not resign within three days under Sub-section (2), he shall be removed by the Officer Incharge of the Panchayats under Section 19(3). Here, the Gram Panchayat consisted of 13 Panchas including the Sarpanch and, therefore, the requisite quorum would be 10. The motion of no-confidence was unanimously carried by 10 Panchas. The petitioner, of, course, opposed the motion.

5. The question still remains whether the three Panchas had incurred any disqualification. The Additional District Development Officer, Nagaur by his order dated 27-1-1975 has held that the meetings in question held on 29-10-1972, 5-11-1972, 12-11-1972, 19-11-1972 and 26-11-1972 were not valid, inasmuch as no notice calling these meetings was ever issued. In that view, he held that the three Panchas had not incurred any dis-qualification. That being so, they were entitled to

participate at the meeting held on 7-12-1972, at which the motion of no-confidence against the petitioner was carried.

6. Under Section 17(2), the office of a Panch does not become vacant automatically in view of Rule 12 of the Rajasthan (Panchayat and Nyaya Panchayat) General Rules, 1961. See *Nandram v. State of Rajasthan and Ors.* (1965) 15 Rajasthan 746.

7. The result, therefore, is that the writ petitions fail and are dismissed. There shall be no order as to costs.

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