

Surendra Kumar Garg and ors. Vs. the State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Sep-24-2004

Reported in : RLW2005(1)Raj478; 2005(1)WLC243

Judge : Shiv Kumar Sharma and; R.P. Vyas, JJ.

Acts : Rajasthan Panchayati Raj Act, 1994 - Sections 39 and 97

Appeal No. : D.B. Civil Special Appeal (W) No. 1043 of 2003

Appellant : Surendra Kumar Garg and ors.

Respondent : The State of Rajasthan and ors.

Advocate for Def. : D.V. Tholia and; S.S. Sharma, Adv.

Advocate for Pet/Ap. : R.K. Mathur, Adv.

Disposition : Appeal dismissed

Judgement :

R.P. Vyas, J.

1. The instant appeal is directed against the order of the learned Single Judge dated August 26, 2003, by which he dismissed the writ petition of the appellant-petitioners on the grounds that to settle the scores against respondent No. 3- Smt. Surta Devi the lady Sarpanch of Gram Panchayat, the petition has been filed, and

she is indulged in forgery and prepared forged documents, the petitioner-appellants are free to move a No Confidence Motion against her. Apart from that, the petitioner-appellants are not directly affected by the order of the State Government.

2. Aggrieved by the aforesaid order of the learned Single Judge, the instant appeal has been filed.

3. In this appeal, the appellant-petitioners have challenged the impugned order of the learned Single Judge dated August 26, 2003 on two grounds. Firstly, it was contended that the learned Single Judge has committed serious illegality and irregularity while dismissing the writ petition, without taking into consideration the provisions of Section 39 and 97 of the Rajasthan Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act, 1994')- He also made an attempt to assail the impugned judgment with reference to Section 39 of the Act, 1994 and submitted that by virtue of the said provisions of the Act and in the facts and circumstances of the present case, the State Government has no jurisdiction to pass such impugned order and there is no reason to hold that the respondent No. 3 is not guilty. Secondly, it was contended that the appellants are office-bearers of the same Panchayat and, in the public interest, they have made a complaint against the respondent No. 3, Smt. Surta Devi, as they have locus standi to do so and know the consequences of the complaint. In the public interest, the State Government should take action against the respondent No. 3.

4. It may be mentioned that respondent No. 3 was served with the charge sheet vide memorandum dated 18th January, 2001 under Section 38 of the Act, 1994. She denied the charges and stated that the charge sheet is politically motivated. Thereafter, enquiry was conducted and the matter was referred to the Government with the recommendation of the Divisional Commissioner. The State Government has not accepted the recommendation of the Divisional Commissioner and the matter was ordered to be dropped by the State Government vide its letter No. F3/J/Janch/Jai/2002/2926 dated 29.6.2002.

5. Heard learned counsel for the parties at length.

6. So far as the ground of locus standi is concerned, it may be mentioned that once the complaint is made, the business of the complainant is over. He is no more person to make any interference as the complaint is the subject -matter of enquiry between the party concerned and the Government and no-one has a right to make an interference. The complainant is only an informer and the business has been completed by the appellants, while making complaint against the respondent No. 3 and they have no interest left in the matter to get acquaintance with the further development of the proceedings. Apart from that, the State Government has always inherent jurisdiction to revoke its earlier order in view of the subsequent events taking place in the matter. In this connection, reference of *Bharat Kumar v. The State of Rajasthan and Ors.*, 2000 (2) WLC (Raj.) 270, and *Mahadev Prasad Yadav v. State of Rajasthan and Ors.*, RLR 1990 (1) P. 157 = (RLW 1990 (1) Raj. 529 may be made.

7. So far as other ground is concerned, we have examined the matter at length and looking to the facts and circumstances of the case, the learned Single Judge has rightly arrived at the conclusion that the concerned persons have no locus standi. Learned Single Judge has also rightly observed that if the petitioner-appellants feel that Respondent No. 3-a lady Sarpanch of the Gram Panchayat Renwal Maji, District Jaipur, is indulged in corrupt practices, they are free to move a no-confidence motion against her, but an attempt to file a politically motivated writ petition, in order to settle their scores against respondent No. 3-the lady Sarpanch of the aforesaid Gram Panchayat and to get her ousted from the elected Office of the Sarpanch is difficult to appreciate. Apart from that, the petition was not a bona fide one and even the petitioner- appellants are not directly affected by the impugned order of the State Government. That being the position, we are not inclined to make any interference with the order of the learned Single Judge. The special appeal stands dismissed.