

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.1453 OF 2018

JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr.B.Sesibhusan Rao for appellant, Mr.G.Seshadri for ZPP, Ms.A.Jayanthi for Revenue and Mr.C.V.K.Rudra Prasad for 5th respondent.

The writ petitioner is the appellant. The appeal is directed against the order dated 26.10.2018 in W.P. No.38319 of 2018. The appellant challenges Form-V Notice No.Rc.A1/355/2018 dated 11.10.2018, as illegal and contrary to Section 245 of the A.P. Panchyat Raj Act, 1994 and the Rules made thereunder.

The challenge is substantially laid by referring to Rule 3 of the the Panchayat Rules issued under G.O.Ms.No.200 dated 28.04.1998. The Rule is already excerpted in the order under appeal and for brevity we prefer not to re-produce Rule 3 in our order. The premise on which the challenge to notice dated 11.10.2018 is laid is that respondent No.3 convenes meeting on 'no confidence motion', on a day appointed by him, which shall not be later than 30 days from the date on which the notice under Rule 2 was delivered.

Reverting back to circumstances of the case, we notice that on 07.09.2018, 5th respondent and few other members of MPTC moved the motion of 'no confidence' against the appellant. The 3rd respondent/RDO convened the meeting on 25.09.2018. The appellant filed W.P.No.33345 of 2018 and challenged the notice dated 10.09.2018 as illegal and contrary to the decision of this Court

in K.Sujatha v. Government of A.P.¹. Learned Single Judge, on 17.09.2018 granted interim suspension of notice dated 10.09.2018. The 5th respondent filed writ appeal No.1326 of 2018 against the interim order dated 17.09.2018. On 05.10.2018, this Court ordered the writ appeal and the writ petition and the operative portion of the order reads thus:

“The relevant dates, which have bearing on the applicability of 15 days minimum period, are not in dispute as well as the legal requirement to give 15 days notice. The ratio of Full Bench applies on all force to the facts of the case. Hence, the notice impugned in the writ petition is set aside. The Revenue Divisional Officer/respondent No.3 is given liberty to act on the representation given against the writ petitioner in accordance with law as expeditiously as possible.”

Thereafter, 3rd respondent issued notice dated 11.10.2018 proposing to convene the meeting on 31.10.2018. Now, the challenge of the appellant is that the meeting scheduled to be convened on 31.10.2018 is beyond thirty days stipulated in Rule 3 of the Rules. Hence, is liable to be set aside. The contentions addressed before the learned Single Judge are substantially reiterated.

We have heard the counsel and perused the record. The learned Single Judge in paragraphs 16 and 17 has taken note of the circumstances distinct in the decision in Kamisetty Narayana Murthy v. Revenue Divisional Officer, Euru, West Godavari District ² to the case on hand and dismissed the writ petition.

¹ 2004 (3) ALD 1 (FB)

² 2006 (4) ALD 170

The contention that the meeting is held beyond 30 days is untenable, for in our considered view the meeting convened on the motion of 'no confidence' moved by the members and held on 31.10.2018, does not violate the period prescribed in Rule 3 of the Rules. The same is evident from the following dates. On 12.09.2018, the notice was served on the appellant herein and meeting was convened on 25.09.2018. From 17.09.2018 till 05.10.2018, there has been stay operating against the notice dated 10.09.2018 and therefore the meeting could not be convened. On 05.10.2018, writ appeal and the writ petition were disposed of. The order dated 05.10.2018 had set aside the notice dated 10.09.2018. By operation of order dated 05.10.2018 of this Court, what remains for reconsideration by 3rd respondent is serving a notice on the representation of the 5th respondent and others, moving 'no confidence motion' against the appellant. In the case on hand, the impugned notice is dated 11.10.2018 and the meeting is convened on 31.10.2018. Therefore, the meeting convened on 31.10.2018 is as per the requirement of Rule 3. We are in complete agreement with the findings recorded by the learned Single Judge. The appeal fails and is accordingly dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date: 01.11.2018
Stp