

**THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN  
AND  
THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**WRIT PETITION No.1572 OF 2018**

**JUDGMENT:** (per Hon'ble Sri Justice Ravhvendra Singh Chauhan)

Aggrieved by the order dated 20.11.2018, passed by the Learned Single Judge, in W.P. No.40769 of 2018, whereby the Learned Single Judge has dismissed the Writ Petition wherein the appellant-petitioner had challenged the notice dated 31.10.2018 calling for no confidence motion against the appellant-petitioner *inter alia* on the ground that the requirement of Rule 3 of the Rules were not complied with.

Briefly, the facts of the case are that the petitioner was elected as President of Choppadandi Mandal Praja Parishad in the elections held on 06.04.2014. On 24.10.2011, eleven members of the Mandal Parishad addressed a letter to the Revenue Divisional Officer informing him that they are moving a motion of no confidence against the appellant-petitioner. On the same day they served a notice in Form – II(A) expressing their loss of confidence, and requesting the Revenue Divisional Officer to convene a special meeting of the Parishad. Consequently, the Revenue Divisional Officer, Karimnagar, issued notice in Form V, dated 31.10.2018, informing the members of Parishad, and the appellant-petitioner with regard to convening of the special meeting of the Parishad to consider the motion of no confidence on 16.11.2018. According to the appellant-petitioner, the letter was served upon him on 05.11.2018.

Aggrieved by the said notice, the appellant-petitioner filed the Writ Petition before the Learned Single Judge. However, by the

impugned order the Learned Single Judge has dismissed the Writ Petition. Hence this present appeal before this Court.

Mr. V. Ravi Kiran Rao, Learned Counsel for the appellant-petitioner pleads that in case of **K. Sujatha v. Government of Andhra Pradesh, Panchayat Raj Department**<sup>1</sup>, the Full Bench of this Court had opined that Rule 3 of the Rules Relating to Motion of No Confidence in the Upa-Sarpanch of Grampanchayat or President/Vice-President of Mandal Parishad or Chairman/Vice-Chairman/Zilla Praja Parishad Rules ('Rules' for short) is directory in nature. Subsequently a reference was made to a second Full Bench of this Court. However, as the reference had become infructuous, by order dated 24.08.2012, the Learned second Full Bench had dismissed the Writ Petitions as infructuous. Although a request was made to keep the issue referred for consideration open for decision in appropriate case, even the said request was not granted by the Learned Full Bench. But nonetheless, the Learned Counsel pleads that the decision rendered by the Full Bench in the case of **K. Sujatha** (supra) needs to be reconsidered by this Court. Secondly, relying in the case of **C. Puttaswamy v. Prema**<sup>2</sup>, the Learned Counsel pleads that in the said case the Hon'ble Karnataka High Court, dealt with provisions similar to Rule 3 of the Rules. The Hon'ble Karnataka High Court has opined that the provision is mandatory in nature. Therefore in the light of **C. Puttaswamy** (supra), the Full Bench decision of this Court in the case of **K. Sujatha** (supra) should be reconsidered by this Court.

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<sup>1</sup> 2004 (3) ALT 682 (FB)

<sup>2</sup> AIR 1992 Kant 356

Heard the Learned Counsel and perused the impugned order.

In the case of **Dayanand v. Official Liquidator**<sup>3</sup>, the Supreme Court has clearly opined that judicial discipline must be followed at all levels. Once a decision has been rendered by a Full bench of the High Court, it does not behoove a Learned Division Bench of the said Court to either disagree, or to make a reference to a Full Bench against decision of a Full Bench. Being a smaller bench, a Learned Division Bench is legally bound by the decision of the Full Bench of its own High Court.

Even if a reference was made to the second Full Bench, by order dated 24.08.2012, the reference was declared to be infructuous. Thus, even the reference did not fructify into a full-fledged judgment. In such a scenario, the judgment delivered by the Full bench in the case of **K. Sujatha**<sup>1</sup> (supra), holds the field. According to the Full Bench, the provisions of Rule 3 of the Rules are only directory in nature, and not mandatory. Therefore, the first contention being raised by the Learned Counsel for the appellant is clearly unacceptable.

Even if the Hon'ble Karnataka High Court has expressed a view contrary to the view expressed by the Full Bench of this Court, this Bench is not bound by the decision of **C. Puttaswamy**<sup>2</sup> (supra). After all, the Learned Division Bench of this Court is bound by only the Full Bench decision of this Court, and not of any other High Court. Therefore even the second contention being raised by the Learned Counsel for the appellant is clearly unsustainable.

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<sup>3</sup> JT 2008 (11) SC 467

A perusal of the impugned order reveals that the Learned Single Judge has squarely relied on the decision of the Full Bench of this Court in the case of **K. Sujatha**<sup>1</sup> (supra). Thus the Learned Single Judge was justified in holding that even if the time given for notice was just eleven days, instead of the fifteen days prescribed by Rule 3 of Rules, even then the notice cannot be interfered with.

For the reasons stated above, this Court has not find any merit in the present appeal; it is hereby dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

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**RAGHVENDRA SINGH CHAUHAN, J**

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**M. SATYANARAYANA MURTHY, J**

Date: 26.11.2018

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