

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT APPEAL No.627 of 2022

AND

WRIT PETITION No.35537 of 2022

COMMON JUDGMENT: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Mr. D.Rama Krishna, learned counsel for the appellants; Ms. G.Jyothi Kiran, learned Government Pleader for Panchayat Raj and Rural Development representing respondents No.1 to 4 in W.A.No.627 of 2022; and Mr. S.Surender Reddy, learned counsel for respondent No.5/writ petitioner.

2. W.A.No.627 of 2022 challenges interim order dated 20.09.2022 passed in W.P.No.35537 of 2022 filed by respondent No.5 as the writ petitioner.

3. In the related writ petition, respondent No.5 has sought for a declaration that notice issued by the Revenue Divisional Officer convening a meeting of Kotamarthi Gram Panchayat on 22.09.2022 to discuss no confidence motion

against respondent No.5 is illegal and arbitrary and therefore to quash the same.

4. In the interlocutory application, a prayer was made to stay all further proceedings pursuant to such notice issued by the Revenue Divisional Officer.

5. Respondent No.5 is presently serving as Upa Sarpanch of Kotamarthi Gram Panchayat, Addagudur Mandal, Yadadri Bhongiri District.

6. Order dated 20.09.2022 passed in W.P.No.35537 of 2022 reads as under:

"Questioning the Form-IV notice dated 03-09-2022 issued by the respondent No.4-Revenue Divisional Officer, Bhongiri Division, Bhongiri, Yadadri Bhongiri District, proposing to conduct no-confidence motion in respect of the petitioner' the petitioner has filed the present Writ Petition.

A perusal of the material available on record shows that on earlier occasion, when the petitioner was issued Form-IV notice dated 25-01-2022, the petitioner has filed Writ Petition No. 4951 of 2022 and this Court vide order dated 20-07-2022 has allowed the said Writ Petition by setting aside the Form-IV notice date 25-01-2022 impugned therein.

A perusal of the order dated 20-07-2022 of this Court in Writ Petition No. 4951 of 2022 clearly shows that while setting aside the Form-IV notice dated 25-01-2022 impugned therein, no leave was granted to the official respondents to issue Form-IV notice afresh.

The earlier Form-IV notice, which was impugned in Writ Petition No.4951 of 2022, was dated 25-01-2022 and the present Form-IV notice, which is impugned in the present Writ Petition, is dated 03-09-2022.

Having regard to the fact that in the order dated 20-07-2022 passed by this Court in Writ Petition No. 4951 of 2022, this Court has not granted any leave to the official respondents to issue Form-IV notice afresh to the petitioner, the impugned Form-IV notice dated 03-09-2022 issued to the petitioner by the respondents No.4 is *prima facie* contrary to the provisions of the Telangana Panchayat Raj Act, 2018, and the Rules relating to Motion of No-Confidence against Upa-Sarpanch of the Gram Panchayat, or President or Vice-President of Mandal Parishad, or Chairperson or Vice-Chairperson of the Zilla Parishad.

Accordingly, there shall be interim stay as prayed for.”

7. From a perusal of the above, we find that learned Single Judge has basically stayed notice for no confidence against respondent No.5. Learned Single Judge noted that on an earlier occasion, notice for no confidence motion was given to respondent No.5 on 25.01.2022 proposing to hold

the meeting on 31.01.2022. By the order dated 20.07.2022, earlier notice dated 25.01.2022 was set aside. Learned Single Judge noted that while setting aside the above notice, no leave was granted to the Revenue Divisional Officer to issue notice of no confidence. Accordingly, the notice issued for holding meeting to discuss no confidence motion against respondent No.5 has been stayed.

8. The basic ground urged by respondent No.5 was that fifteen days time was not granted by the notice for holding meeting to discuss no confidence motion. Therefore, there was violation of Section 30 of Telangana Panchayat Raj Act, 2018.

9. A Full Bench of this Court in **Smt. K.Sujatha v. Government of Andhra Pradesh**¹ has held that the requirement for giving fifteen days clear notice between the date of notice and the date of proposed meeting is a mandatory requirement. However, the Full Bench explained the purpose and object of giving notice and

¹ 2004 (2) APLJ 330 (HC)

explained that it was only to give due intimation to the members of the proposed meeting. If a member gets a shorter period of notice than fifteen clear days, that would not matter. Unless some prejudice is shown to have been caused to such a member by shortfall in the period of notice, neither the meeting nor the proceedings would be said to be invalid.

10. Learned counsel for respondent No.5 submits that no fresh notice of no confidence can be brought in within two years of earlier no confidence motion. Since the date of the earlier notice of no confidence is 25.01.2022, the impugned notice is illegal. Learned Single Judge had rightly stayed the same.

11. Learned Government Pleader for Panchayat Raj and Rural Development submits that the earlier notice dated 25.01.2022 did not reach its logical conclusion and was interdicted by the Court before the meeting could be held. Therefore, the present proceeding including the impugned notice is a continuation of the earlier proceeding initiated for holding meeting to discuss no confidence motion.

12. Panchayats as well as municipalities have now been brought under the constitutional scheme by way of the 73rd Constitutional Amendment. The fundamental principle governing panchayats and municipalities is that these bodies are to be run and managed on the strength of popular mandate. A person cannot hold onto office without having the majority support. Learned Government Pleader has pointed out that the Revenue Divisional Officer had only conveyed the sentiments of the majority members by issuing the notice which is nothing but consequential.

13. We are therefore of the view that on the basis of technicalities, an elected representative cannot evade the test to determine as to whether he enjoys majority support or whether he should continue in office.

14. Therefore and in the light of the above, we set aside the impugned order dated 20.09.2022 as well as dismiss the related writ petition i.e., W.P.No.35537 of 2022.

15. However, we direct that the meeting to discuss no confidence motion against respondent No.5 shall now be held on 10.10.2022 at 11:00 am.

16. Writ appeal is accordingly allowed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

UJJAL BHUYAN, CJ

C.V.BHASKAR REDDY, J

23.09.2022
vs