

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-13983-2022

Reserved on: 13.03.2023

Date of decision: 23.03.2023

DEEPAK ARORA AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Kanwaljit Singh, Senior Advocate assisted by
Mr. Anirudh Gupta, Advocate
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab

Mr. Baltej Singh Sidhu, Senior Advocate assisted by
Mr. Chandan Singh, Advocate
for respondent No.5.

Mr. A.D.S. Jattana, Advocate
for respondent No.6.

SURESHWAR THAKUR, J.**FACTUAL BACKGROUND**

1. In the year 2019 elections were held for the post of Councillors to Municipal Council, Talwara. The private respondent one Monika Sharma was subsequently elected as President, Municipal Council, Talwara. The election of the private respondent (supra), as President, Municipal Council, Talwara, is reflected by Annexure P-1.

2. However subsequently, the Municipal Councillors concerned, were dissatisfied with the working of the private respondent, as President of Municipal Council, Talwara, and, as such in terms of sub Section 3 of Section 25 of The Punjab Municipal Act, 1911 (hereinafter referred to as “the Act”) they

served a notice on 10.12.2021, upon private respondent-Monika Sharma, hence

for the relevant meeting being convened. The purpose of the said meeting was to enable the dissatisfied Councillors to move a no confidence motion against the private respondent. However, since in terms of sub Section 3 of Section 25 of the Act, the said meeting was not convened within a period of 14 days, from the private respondent purportedly receiving the said notice. Therefore, the Members/Councillor who had on 28.12.2021, signed the requisite notice, accessed the Executive Officer concerned, to schedule the relevant meeting on 04.01.2022. Though, the said requisition was acceded to by the Executive Officer concerned. However, the said meeting was postponed to 10.01.2022. The SDM concerned, was appointed as an Observer, for the said meeting, but he was not present, leading to as revealed by Annexure P-7, a meeting of the dissatisfied Councillors being convened, on 14.01.2022. In the said meeting a no confidence motion was tabled, and was also successfully passed by the relevant requisite quorum of the Municipal Councillors concerned.

3. Since in terms of the second proviso to Section 22, the no confidence motion was required to be also approved by the State Government. Therefore, the competent authority who received the said no confidence motion, as revealed by Annexure P-12 rather did not approve the said no confidence motion. The reason as set forth therein is carried in paragraph 9 of Annexure P-12, paragraph whereof, becomes extracted hereinabove.

“9. That the meeting held on 14.01.2022 regarding the no-confidence motion by the councillors at their own level regarding removal of the President, Municipal Council, Talwara from the post of President is cancelled due to violation of Section 25(3) of Punjab Municipal Act, 1911.”

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE PETITIONERS

4. The learned Senior counsel appearing for the petitioners, has vehemently argued, that the decision drawn by the competent authority, and, as

enclosed in Annexure P-12 is contrary to the mandate of sub Section 3 of Section 25 of the Act of 1911.

5. He submits that since the requisite quorum, had successfully passed a no confidence motion against the private respondent. Thus, he argues that the mandate carried in sub Section 3 of Section 25 of the Act, could not be read *stricto sensu* nor could be assigned any mandatory overtone, as then, the successful passing of the no confidence motion against the private respondent, would be defeated, and, resultantly would make the successfully engaged democratic process, hence for the removal of the private respondent, from the office of President of M.C. Talwara, rather becoming untenably frustrated.

6. He further argues, that in terms of sub Section 3 of Section 25 of the Act, the period of 14 days was to be computed from 28.12.2021, therefore, he submits that by making the relevant computation from 28.12.2021, the period of 14 days therefrom rather elapsed on 10.01.2022. Furthermore, he also submits that since on 10.01.2022, the appointed Observer was not present in the convened meeting, rather owing to the Punjab Model Code of Conduct being in force, even on 08.01.2022, and, as arose from the impending elections to the Punjab State Legislative Assembly. Resultantly he argues that the meeting as was held on 14.01.2022, was a well convened meeting, even within the ambit of sub Section 3 of Section 25 of the Act. As but a natural corollary he argues, that the rejection of the no confidence motion rather through the impugned order enclosed in Annexure P-12, hence does require an interference.

7. However, for the reasons to be assigned hereinafter, the above made addresses are devoid of any merit and are rejected.

ANALYSIS OF THE PROVISION OF SECTION 25 OF THE ACT

8. For making the above inference initially, it is, of utmost importance to analyse the provisions of sub Section 3 of Section 25 of the Act. Therefore, the said provisions are extracted hereinafter.

“25. Times of holding Meetings. - xxx

[(3) If the President or the Vice-President, as the case may be, fails to call a meeting of the committee within a period of fourteen days from the date of receipt of requisition, the members who had signed the requisition may convene a meeting of the committee in accordance with the bye-laws of the committee within a period of thirty days of the making of such requisition and notwithstanding anything contained in this Act such meeting shall be deemed to be a validity convened meeting:

Provided that no business other than that specified in the requisition shall be transacted in such meeting and the quorum for such a meeting shall be as provided for a special meeting under sub-section (1) of Section 27.”

9. A ready conclusion which is to be drawn, from the said provisions, is that, in case the President or the Vice President of the Municipal Committee concerned, does not, on receiving the apposite notice from the dissatisfied Municipal Councillors concerned, hence convene any meeting for the relevant purpose. Thus, the members who signed the requisite notice, become authorized to convene a meeting of the Committee, but within a period of 30 days, to be computed from the making of such requisition, i.e. within a period of 30 days rather to be counted from the makings of such requisition, upon, the President of the Municipal Committee concerned. In other words, the apposite statutory phraseology “within a period of 30 days of the making of such requisition”, is but, to be assigned a connotation, that the said period of 30 days, is required to be computed from the makings by the concerned, of the initial requisition, upon, the President or the Vice President of the Committee concerned. The making of

the said signification, to be above relevant statutory coinage, does but become completely secured, from the words/coinage (supra) as exist therein. Therefore, the argument of the learned counsel, for the petitioners, that the relevant computation, has to be made not from 10.12.2021, when such requisition was made by the Councillors upon the President, but rather from or, on the failure of the private respondent concerned, to on 28.12.2021, hence convene the relevant meeting, is but, completely contrary to the clear legislative intendment, as, becomes cast in clear statutory coinage(s) (supra) as carried in sub Section 3 of Section 25 of the Act. It is further clear, that irrespective of such requisition being validly served or being validly received by the concerned, yet the mere making of “such requisition” becomes the relevant date of computation for the relevant purpose.

CONCLUSION

10. The meeting wherein all the Municipal Councillors concerned, successfully passed the no confidence motion against the private respondent but was convened on 14.01.2022. Therefore, the convening of the said meeting, on the said date, is clearly beyond 30 days, but to be computed from 10.12.2021, and from where the period of 30 days is to be ably computed, upon, failure of the private respondent concerned, to within 14 days from 10.12.2021, hence convene a meeting for the relevant purpose.

11. The statutory coinage (supra) as exist in sub Section 3 of Section 25 of the Act, though *prima facie* is cast in a directory phraseology, but yet it has to be assigned a strict construction, as without assigning a strict construction thereto, an open latitude would be left to the dissatisfied Councillors concerned, to stretch the relevant period of 30 days, to a much more elongated period of time, which but is not the intendment of the legislature. If the above overstretching is done, it would lead to an ill casualty qua within the untenable

stretched period of time, an unworthy facilitation for horse trading, being purveyed to the faction concerned.

12. Though the period of of 30 days to be computed from 10.12.2021 elapsed on 10.01.2022, and when obviously, though then an able meeting for the relevant purpose was ordered to be convened, but yet was not convened then, as the SDM concerned, who was appointed as Observer rather was not present. However, yet the dissatisfied Councillors concerned, could immediately access, the learned Collector concerned, for the appointment of some other Officer as an Observer for supervising the relevant meeting. The above recourse was not adopted by the dissatisfied Councillors, contrarily the meeting was deferred to 14.01.2022. Therefore, the said meeting wherein a no confidence motion was successfully passed against the private respondent but was clearly hit by the above signification as assigned to the above alluded statutory coinage, as exist in sub Section 3 of Section 25 of the Act. In other words, the said convened meeting was not an ably convened meeting.

13. Even if assumingly, on account of the Punjab Model Code of Conduct being in force, on account of the impending elections to the Punjab State Legislative Assembly, and, which may have led the Observer concerned, to not attend the meeting scheduled on 10.01.2022. However, the factum of the Punjab Model Code of Conduct being in force on 10.01.2022, is of the least relevance, as it pertained, to the elections to the Punjab State Legislative Assembly. Thus the said Punjab Model Code of Conduct, did not, in the least either affect nor forbade, the holdings of a meeting for the purpose of tabling and passings of no confidence motion against the private respondent. The above inference is firmly secured from the factum, that the statutory coinage (supra), as, exist in sub Section 3 of Section 25 of the Act, but cannot be assigned any directory overtone, nor could be breached by the Officers concerned, even on

10.01.2022, when the meeting of the dissatisfied Councillors of the Municipal Committee concerned became scheduled, especially when 10.01.2022, rather was the legally well enabled date for the convening of a lawful meeting of the dissatisfied Municipal Councillors of the Municipal Committee concerned.

FINAL ORDER

14. This Court finds no merit in the writ petition, and, the same is dismissed. The impugned order is maintained, and, affirmed.

(SURESHWAR THAKUR)
JUDGE

23.03.2023
Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No