

(2006) 06 KL CK 0020

High Court Of Kerala

Case No: Writ Petition (C) No. 16059 of 2006

K.A. Joseph Master

APPELLANT

Vs

The Secretary, Block Panchayat
Office, Pazhayannur and another

RESPONDENT

Date of Decision: June 21, 2006

Acts Referred:

- Kerala Panchayat Raj Act, 1994 - Section 157, 157(13), 157(14)

Citation: (2006) 2 KLJ 872 : (2006) 3 KLT 512

Hon'ble Judges: Thottathil B. Radhakrishnan, J

Bench: Single Bench

Advocate: Siby Mathew, for the Appellant; Murali Purushothaman and N. Nadakumara Menon, for the Respondent

Final Decision: Dismissed

Judgement

Thottathil B. Radhakrishnan, J.

Sri. Murali Purushothaman appears for the first respondent and Sri. N. Nandakumara Menon appears for the second respondent. Heard counsel for parties. Petitioner took charge as the Vice President of the second respondent Vallathol Nagar Grama Panchayat on 5-12-2005. On 1 -6-2006, before the expiry of six months of the petitioner assuming office, a notice of a motion expressing want of confidence in the petitioner (Vice President) was given to the officer authorised by the State Election Commission for such purpose, who received the same and took action in terms of Sub Section 3 of Section 157 of the Kerala Panchayat Raj Act, hereinafter referred to as "the Act", by issuing Ext. P1, convening a meeting to consider the said no-confidence motion. However, by Ext. P2, the authorised officer rejected the notice of motion, which formed the foundation for the issuance of Ext. P1 notice, and as a consequence, the meeting scheduled to 14-6-2006 as per Ext. P1 notice dated 1-6-2006 was cancelled.

2. On 7-6-2006, that is immediately after the period of immunity of six months provided for in Section 157(14) of the Act, a fresh notice of intention to move a no-confidence motion against the petitioner was given to the authorised officer. Being obliged under Sub Sections 2 and 3 of Section 157, the authorised officer issued the impugned Ext. P3 notice on 12-6-2006, convening the meeting for consideration of the no-confidence motion on 22-6-2006. This is under challenge.

3. On behalf of the petitioner, it is urged that in terms of Sub-sections 6 and 8 of Section 157, a meeting convened for the purpose of considering a no-confidence motion shall not be adjourned and since it has been adjourned or cancelled as per the decision of the first respondent on 5-6-2006, it has to be concluded that the motion failed and has not been carried and therefore, there shall be no fresh motion until after the expiry of six months in terms of Section 157(13) and that therefrom the impugned Ext. P3 is without the authority of law.

4. As per Sub-section 14 of Section 157 of the Act. no notice of a motion u/s 157 shall be accepted within six months of assumption of office of a President or Vice President. Hence a notice of the intention to move a motion expressing want of confidence in the President or Vice President of a Panchayat in terms of Subsection 1 of Section 157 is not to be accepted by the authorised officer before the expiry of the said period of six months. The action taken by the authorised officer as per Ext. P1. was clearly illegal and unauthorised, going by the prescriptions in Section 157 (14). An officer, who has done an act without authority and by contradicting the inhibition contained in a particular statutory provision, like Sub-section 14 of Section 157, is well within authority to cancel his own exercise, which was wholly unauthorised in terms of the statutory provisions. Hence Ext. P2 was rightly issued. Sub section 13 of Section 157 provides that no notice of a subsequent motion of no-confidence in the same President or Vice President shall be received, until after the expiry of six months from the date of meeting or the date fixed for the motion, if the motion is not carried by such majority as provided, or that the meeting cannot be held for want of quorum. It is the indisputable situation that the instant case is not one where the meeting was not held for want of quorum. Nor was the motion put to debate or vote in terms of sub-section 8 and 9 of Section 157. It was only the cancellation of an action taken by the first respondent and such cancellation was done on the basis that the action cancelled thereby was one initiated without authority. So much so, the cancellation of the meeting scheduled as per Ext. P1 by the first respondent, by the action taken by him in the form of Ext. P2. does not amount to the consideration of the motion being adjourned or the meeting being not held for want of quorum. Under such circumstances, the contention of the petitioner based on Sub-section 13 of Section 157 fails. The writ petition is dismissed.