
(1959) 03 KL CK 0046

High Court Of Kerala

Case No: O.P. No. 128 of 1958

Philip

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision: March 4, 1959

Acts Referred:

- Travancore-Cochin Panchayat Act, 1950 - Section 115(2)

Citation: (1959) KLJ 559

Hon'ble Judges: M.S. Menon, J

Bench: Single Bench

Advocate: K.K. Mathew, George Vadakkal and N.K. Job, for the Appellant; Henry Austin for 4th Respondent, for the Respondent

Final Decision: Allowed

Judgement

M.S. Menon, J.

The petitioner was a clerk of the Paippad Panchayat. He was relieved from his duties by Ext. P. 1, an order of the Executive Authority of the said Panchayat dated 5-2-1958. That order reads as follows:

Pursuant to the G.P. presented to me to-day (G.P. No. D. Dis. 6890/57/L and LAD dated 17-1-58) at 11 A.M. by the President of this Panchayat, I relieve you from your duties in the Paippad Panchayat with effect from 11 A.M., 3-2-1958.

It is clear from the order that it is solely based on the G.P. mentioned in the order. The Government do not appear to have any right to direct the termination of the services of the petitioner either under the Travancore-Cochin Panchayats Act, 1950, or the Rules framed thereunder.

2. Section 115 (2) of the Act to which my attention has been drawn confers only an appellate power on the Government. It reads as follows:

Any person aggrieved by any notice or order issued or passed by or by any other act of a Panchayat or its Executive Authority under this Act may appeal to the Director and an appeal against the orders of the Director shall lie to Government. The appellate authority may pass such orders on the appeal as it deems fit and pending decision, may direct the Panchayat, the Executive Authority or the Director, as the case may be, to keep the proceedings in abeyance.

3. Reliance was placed by the Government Pleader on Explanation 2 to Rule 27 of the Panchayat Establishment Rules, 1955. The Explanation relates only to the discharge or reversion to a lower post "of any person officiating in any post" and has no application to the case of the petitioner. It follows that this petition has to be allowed and I do so, though in the circumstances of the case without any order as to costs.