HC-KAR

NC: 2025:KHC-K:3749
WP No. 200592 of 2025

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 9TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.I.ARUN

WRIT PETITION NO.200592 OF 2025 (LB-ELE)

BETWEEN:

SMT. MAHADEVI
W/O VIJAYKUMAR,
AGE: 44 YEARS, OCC: PRESIDENT OF
GRAM PANCHAYAT, SANTHPUR,
R/O SANTHPUR MASKAL VILLAGE,
TQ. AURAD(B), DIST. BIDAR-585436.

...PETITIONER

(BY SRI. SANDEEP VIJAYKUMAR, &
SRI. GANESH NAIK, ADVOCATES)

AND:

Digitally signed by LUCYGRACE
Location: HIGH COURT OF KARNATAKA

1. THE STATE OF KARNATAKA
DEPARTMENT OF PANCHAYAT RAJ,
REPRESENTED BY ITS PRINCIPAL SECRETARY
M. S. BUILDING-560001.

2. THE DEPUTY COMMISSIONER
BIDAR, DIST. BIDAR-585401.

3. THE ASSISTANT COMMISSIONER,
OFFICE OF ASSISTANCE COMMISSIONER, BIDAR,
DIST. BIDAR-585401.

4. THE PANCHAYAT DEVELOPMENT OFFICER
(PDO) SANTHPUR GRAM PANCHAYAT,

TQ. AURAD(B), DIST. BIDAR-585436.

5. SMT. SUMITRABAI W/O MARUTI,
AGE: 65 YEARS, OCC: MEMBER OF GP

6. SRI. SIDDARAM S/O GURUBASAPPA,
AGE: 68 YEARS, OCC: AGRI AND MEMBER OF GP

7. SHRI. BASAVARAJ S/O SHIVAMURTHAPPA,
AGE: 69 YEARS, OCC: AGRI AND MEMBER OF GP

8. SMT. NOORJAHA BEGUM
W/O GHAFAR KHAN,
AGE: 61 YEARS, OCC: HH AND MEMBER OF GP

9. SRI. SATISH S/O NARSINGRAO,
AGE: 28 YEARS, OCC: AGRI AND MEMBER OF GP

10. SRI. ANILKUMAR S/O SHANKAR,
AGE: 45 YEARS, OCC: AGRI AND MEMBER OF GP

11. SMT. RENUKA W/O CHANDRAKANTA,
AGE: 45 YEARS, OCC: HH AND MEMBER OF GP

12. SMT. KAVITHA W/O SHAMRAO,
AGE: 39 YEARS, OCC: HH AND MEMBER OF GP

13. SMT. MANGALABAI
W/O SHANTHAYYA SWAMY,
AGE: 60 YEARS, OCC: HH AND MEMBER OF GP

14. SRI. SANTOSH
S/O HANMANTH MUSCUL,
AGE: 45 YEARS, OCC: AGRI AND MEMBER OF GP

15. SMT. JAISHRI W/O SHIVAKUMAR,
AGE: 37 YEARS, OCC: HH AND MEMBER OF GP

16. SMT. DEVIBAI W/O SHIVAJI MUSCUL,
AGE: 47 YEARS OCC: HH AND MEMBER OF GP

17. SRI. PRAKASH S/O PANDURANG,
AGE: 43 YEARS OCC: AGRI AND MEMBER OF GP

18. SMT. VAISHALI W/O TUKARAMA,
AGE: 38 YEARS, OCC: AGRI AND MEMBER OF GP

19. SMT. INDUMATI W/O SHARANAPPA,
AGE: 39 YEARS, OCC: AGRI AND MEMBER OF GP
R5 TO R19 ALL ARE R/O. SANTHPUR GRAM PANCHAYAT,
TQ. AURAD(B), DIST. BIDAR-585436.

…RESPONDENTS

(BY SRI. SHESHADRI JAISHANKAR, AGA FOR R1 TO R3;
SRI. A. A. GUNNAPUR, ADVOCATE FOR R5 TO R19;
NOTICE TO R4 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE AN APPROPRIATE WRIT, MORE SO IN THE NATURE OF CERTIORARI AND GRANT THE FOLLOWING RELIEFS. A) ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING IMPUGNED NOTICE ISSUED BY RESPONDENT NO.3 IN FILE NO. ಸಂಖ್ಯೆ: ಕಂ/ಚುನಾವಣೆ/ಸಿಆರ್-13/07/2024-25 13/7/2024-25 DATED 17.02.2025 CALLING FOR MEETING TO DISCUSS NON-CONFIDENCE MOTION AGAINST THE PETITIONERS AS PER ANNEXURE-A.

THIS PETITION, COMING ON FOR ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.I.ARUN

ORAL ORDER

(PER: HON'BLE MR. JUSTICE M.I.ARUN)

The petitioner is the President of Gram Panchayat of Santhpur, when no-confidence motion was moved against the petitioner. The writ petition is filed on the ground that no 15 days clear notice was issued in respect of no confidence motion. On the said ground, the following prayer is made.

a. Issue a writ in the nature of certiorari quashing impugned notice issued by respondent No.3 in file No. ಸಂಖ್ಯೆ: ಕಂ/ಚುನಾವಣಿ/ ಸಿಆರ್-13/07/2024-25 dated 17.02.2025 calling for meeting to discuss no-confidence motion against the petitioners as per Annexure-A, in the interest of justice.

b. Pass any other order, writ or direction which this Hon'ble Court deems fit in the circumstances of the case.

2. Per Contra, the respondents contend 15 days clear notice has been given and pray that the writ petition may be dismissed.

3. Rule 3 of Karnataka Gram Swaraj and Panchayat Raj Act, (Motion of No-Confidence Against Adhyaksha and Upadhyaksha of Grama Panchayat) Rules, 1994 read as under:

> **3. Motion of No-confidence.** - (1) A written notice of intention to make the motion under the proviso to Section 49 shall be in Form I signed by [2][not less than specified in Section 49(1)] of the total number of members together with a copy of the proposed motion shall be delivered in person [3][specified under sub-section (2) of Section 49, the allied particular allegations with notice enlisted in written witnesses and evidences submitted in person] by any two of the members signing the notice to the Assistant Commissioner.
>
> (2) The Assistant Commissioner shall thereafter convene a meeting for the consideration of the said motion at the office of the Grama Panchayat on the date appointed by him which shall not be later than thirty days from the date on which the notice under sub-rule (1) was delivered to him. He shall give to the members a notice of not less than fifteen clear days of such meeting in Form II: [3][The Assistant Commissioner shall make sure that the allegations delivered are specific in the attached list of notice to prepare a report within seven days in respect of Taluk Panchayat Executive Officer):

Provided that where the holding of such meeting is stayed by an order of a Court, the Assistant Commissioner shall adjourn the said meeting and shall hold the adjourned meeting on a date not later than thirty days from the date on which he receives the intimation about the vacation of stay, after giving to the members, after giving to the memebers a notice of not less than fifteen clear days of such adjourned meeting.

(3) A notice is Form II shall be given to every member including the Adhyaksha and Upadhyaksha.-

(a) by delivering or tendering the said notice to such member, or

(b) if such member is not found, by leaving such notice at his last known place of residence or business whithin the Grama Panchayat or by giving or tendering the same to some adult member or servant of his family; or

(c) by registered posts; or

(d) if none of the means aforesaid be available, by affixing such notice on some conspicuous part of the house, if any, in which the member is known to have last resided or carried on business within the Grama Panchayat.

(4) The quorum for such meeting shall be two thirds of the total number of members of the Grama Panchayat. The Assistant Commissioner shall preside at such meeting.

Explanation.- For determination of two third of total number of members under this sub-rule any fraction arrived at shall be construed as one.

(5) Save as otherwise provided in the Act or these rules, a meeting convened for the purpose of considering a motion under sub-rule (2) shall not for any reason be adjourned.

(6) If there is no quorum, within one hour after the time appointed for the meeting, the meeting shall stand dissolved and the notice given under sub-rule (1) shall lapse.

(7) As soon as the meeting convened and sub-rule (2) commences the Assistant Commissioner shall read to the member of the Grama Panchayat, the motion for the consideration of which the meeting has been convened and shall put it to vote without any debate.

(8) The Assistant Commissioner shall not speak on the merits of the motion and he shall not be entitled to vote thereon.

(9) If the motion is carried by a majority of not less than two thirds of the total number of members of the Grama Panchayat, the Adhyaksha or Upadhayksha, as the case may be, shall forthwith cease to function as such and the Assistant Commissioner shall, as soon as may be, notify such cessation on the notice board of the office of the Grama Panchayat and also inform the Adhyaksha or Upadhyaksha, as the case may be,

regarding such cessation, if he is not present at the meeting.

(10) After the cessation is notified under sub-rule (9) the Adhyaksha or Upadhyaksha as the case may be shall, immediately hand over all documents, moneys or other properties of the Grama Panchayat in his custody to the Secretary of the Grama Panchayat.

(11) The election to the office of Adhyaksha or Upadhyaksha shall not be held until the notification under sub-rule (9) removing the Adhyaksha or Upadhyaksha, as the case may be, is published.

4. Thus, for a no-confidence motion to be valid 15 days clear notice to the members is essential. It means 15 days has to be counted by excluding the date of issuance of the notice and the date on which no-confidence motion is held. In the instant case, the no-confidence motion was to be held on 05.03.2025. Thus, notice ought to have been given on or before 17.02.2025.

5. Considering the pleadings made in the petition, this Court on 04.03.2025 had passed the following order:

"Heard the learned counsel for the petitioner.

Learned Additional Government Advocate accepts notice on behalf of respondent Nos.1 to 3.

Issue emergent notice to respondent Nos.4 to 19.

Learned counsel for the petitioner submits that no confidence motion is sought to be taken up against the petitioner who is the Adhyaksha of Santhpur village. It is submitted that 15 days clear notice is not given to the petitioner and other members. He would submit that notice is dated 17.02.2025 and notice is served on the petitioner on 18.02.2025, meeting is fixed on 05.03.2025 and excluding date of service of notice and meeting, the period of notice would only 14 days.

It is also his further submission that the notice is to be served by the Panchayat Development Officer but it is served by Revenue Inspector who has no jurisdiction.

This court prima facie is not convinced with the submission made by the learned counsel for the petitioner relating to the service of notice by Revenue Inspector. It is also noticed that no material is placed on

record to show that notice is served on 18.02.2025. Under these circumstances, the proceedings of the no confidence motion scheduled on 05.03.2025 cannot be stayed as prayed for. The proceedings shall be held. However, the decision taken in the said meeting shall not be given effect to till next date.

List this matter on 20.03.2025.

Hand delivery of this order is permitted."

6. On 07.07.2025, based on the submissions made by learned Additional Government Advocate, this Court has passed the following order:

"Learned Additional Government Advocate upon instructions submits that there has been 15 days clear notice given to all the members about the no-confidence motion. However, he submits that the date is not mentioned as to when it was served on the members. He undertakes to file affidavit of respondent No.3-Assistant Commissioner, in this regard. At his request, list the matter on 09.07.2025.

Interim order, if any, is extended till the next date of hearing."

7. Today, the learned Additional Government Advocate has filed a memo along with affidavit of Assistant Commissioner of Bidar which reads as under:

AFFIDAVIT

1. "I, Mohammed Shakeel S/o. Md.Ismail Aged about 56 years, working as Assistant Commissioner, Bidar, do hereby solemnly affirm and state on oath as under:
2. I am Respndent-No.3 and know the facts of the case.
3. I state that in the present Writ petition the Hon'ble Court directed me to file affidavit vide order dated 07.07.2025. Hence I am filing this affidavit.
4. The notice for conducting of the no-confidence motion against *Adhyaksha* of Santhpur Gram panchayat singed by the deponent on 17-02-2025.
5. The notices were dispatched to Revenue Inspector Santhpur to serve notices to all the members of Gram Panchayat Santhpur from deponent office on 17-02-2025.

6. The acknowledgment receipt of the notice served to all Gram panchayat members of Santhpur was received in inward section of deponent office on 19-02-2025, for which the supporting records have already been submitted to Hon'ble Court.

The above contents and facts are read and are true to the best my knowledge."

8. It is seen from the above affidavit that the Assistant Commissioner has given an elusive answer and has not answered the specific query as to when the notice was actually served on the members, which is unfortunate and it shows the irresponsible and negligent manner in which the 3rd respondent has discharged his function.

9. The learned Additional Government Advocate upon instructions submits, he is not in a position to categorically answer as to when the notice was actually served on the members.

10. It is the specific contention of the petitioner that the notice was served on 18.02.2025 and there is no clear 14 days notice,, which the respondents failed to counter.

11. Under the circumstances, it has to be held that there was no 15 days clear notice in the instant case and the no-confidence motion initiated against the petitioner has to be set aside.

12. Hence the following:

ORDER

The notice issued by respondent No.3 dated 17.02.2025, bearing No. ಸಂಖ್ಯೆ: ಕಂ/ಚುನಾವಣೆ/ ಸಿಆರ್-13/07/2024-25 (Annexure-A to the writ petition) calling for meeting to discuss no-confidence motion against the petitioner is hereby set aside.

Consequently, any no-confidence motion in pursuance of the notice dated 17.02.2025 is hereby set aside.

However, liberty is given to the members to move a fresh no-confidence motion against the petitioner in accordance with law.

Sd/-
(M.I.ARUN)
JUDGE

SMP
List No.: 1 Sl No.: 20
CT:SI