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SMT. KAVITA

v.

THE STATE OF UTTAR PRADESH  
THROUGH SECRETARY & ORS.

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(Civil Appeal No. 2623 of 2018)

SEPTEMBER 05, 2018

**[DIPAK MISRA, CJI, A. M. KHANWILKAR AND  
DR. D. Y. CHANDRACHUD, JJ.]**

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*U.P. Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961- s.15- Appellant, Block Pramukh of Kshettra Panchayat, was issued no confidence motion notice by the Collector – Writ petition filed by appellant, dismissed – Plea of appellant that there was no clear 15 days’ notice as contemplated u/sub-s.(3) of s.15 – Held: Rejected – Appellant avoided to receive the notice personally and hence it was sent by post – Appellant failed to produce any material on record to show that the notice was dispatched after the 17<sup>th</sup> day (the day fixed for meeting, as per the notice) – Further, on appellant’s own admission in the writ petition, it was evident that the objection to the said notice relating to signatures of few members who had signed the notice was taken on the 16<sup>th</sup> day itself – Another ground urged by the appellant that the Collector ought to have enquired into the validity of the signatures of members, who subsequently filed affidavits stating that their signatures were obtained by fraud, was also justly negated by the High Court – Impugned judgment does not warrant any interference.*

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**Dismissing the appeal, the Court**

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**HELD: 1.1 The appellant had refused/avoided to receive the notice personally and hence it was sent by post. The High Court also found that the appellant had failed to produce any material on record to show that the notice was dispatched after the 17<sup>th</sup> day and that on the appellant’s own admission in the writ petition, it was evident that the objection to the said notice was taken on the 16<sup>th</sup> day itself relating to signatures of few members who had signed the notice. This was a strong circumstance to belie the tall claim of the appellant. Taking an overall view of the**

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matter, the High Court noted that the issue involved a disputed question of fact and could not be decided in writ jurisdiction. At the same time, the High Court took note of the fact that the meeting was duly conducted as scheduled in terms of the stated notice and the no confidence motion was passed by a majority, against the appellant. There is no reason to depart from the conclusion recorded by the High Court for rejecting the challenge that no clear 15 days' notice was given as claimed by the appellant. Accordingly, this contention must fail and is rejected. [Para 5] [657-A-D]

1.2 Since the stated notice has already been acted upon and the no confidence motion has been passed against the appellant by majority, no further enquiry into the grounds urged by the appellant is warranted. Even the first ground urged by the appellant that the Collector ought to have enquired into the validity of the signatures of 10 members, who subsequently filed affidavits stating that their signatures were obtained by fraud, was justly negated by the High Court. [Paras 6, 8] [661-G-H; 662-A]

*Smt. Sheela Devi v. State of U.P. and Ors.* AIR 2015 All. 65 ; *Mathura Prasad Tewari v. Assistant District Panchayat Officer, Faizabad* 1966 ALJ 612 – approved.

*Kiran Pal Singh v. The State of Uttar Pradesh & Ors.* 2018 (7) SCALE 605 – relied on.

Case Law Reference

AIR 2015 All. 65	approved	Para 6	F
1966 ALJ 612	approved	Para 6	
2018 (7) SCALE 605	relied on	Para 7	

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2623 of 2018.

From the Judgment and Order dated 03.08.2017 of the High Court of Judicature at Allahabad in Writ-C No. 27912 of 2017.

Aditya Ranjan, Md. Shahid Anwar, Aamir Naseem, Gyanendra Singh, Deepak Goel, Advs. for the appearing parties.

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A The Judgment of the Court was delivered by

**A.M. KHANWILKAR, J.** 1. This appeal is directed against the judgment and order dated 3<sup>rd</sup> August, 2017, passed by the High Court of Judicature at Allahabad in Writ-C No.27912 of 2017, whereby the Division Bench of the High Court dismissed the writ petition filed by the appellant for challenging the no confidence motion notice issued under Section 15 of The U.P. Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961 (for short, “the Act”).

2. A Notice was issued by the Collector/District Magistrate, Bulandshahar, U.P., dated 15<sup>th</sup> June, 2017 on the basis of requisition given by 32 members out of 59 members of the Kshetra Panchayat, expressing no confidence against the appellant who was the Block Pramukh of Kshetra Panchayat, Lakhawati at the relevant time. The notice had fixed the meeting date as 1<sup>st</sup> July, 2017 i.e. on the 17<sup>th</sup> day from the date of notice. The appellant challenged the said notice by way of a writ petition before the High Court of Allahabad on two counts. First, that the Collector had failed to hold an enquiry into the validity of signatures of 10 members, who subsequently filed affidavits stating that their signatures were obtained by fraud. Second, that there was no clear 15 days’ notice as contemplated under sub-section (3) of Section 15 of the Act. The Division Bench, after considering the factual position emanating from the record before it, negatived both the contentions and eventually dismissed the writ petition filed by the appellant vide the impugned judgment.

3. Feeling aggrieved, the appellant has approached this Court raising the self-same two grounds urged before the High Court, for challenging the validity of the no confidence motion notice dated 15<sup>th</sup> June, 2017. The respondents have supported the reasons recorded by the High Court and would contend that both the grounds urged by the appellant are devoid of any merit.

4. We have heard Mr. Aditya Ranjan, learned counsel for the appellant.

5. Reverting to the second contention that there was no clear 15 days’ notice, this aspect has been considered by the High Court on the

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basis of record before it, revealing that the appellant had refused/avoided to receive the notice personally and hence it was sent by post. The High Court also found that the appellant had failed to produce any material on record to show that the notice was dispatched after the 17<sup>th</sup> day and that on the appellant's own admission in the writ petition, it was evident that the objection to the said notice was taken on the 16<sup>th</sup> day itself relating to signatures of few members who had signed the notice. This was a strong circumstance to belie the tall claim of the appellant. Taking an overall view of the matter, the High Court noted that the issue involved a disputed question of fact and could not be decided in writ jurisdiction. At the same time, the High Court took note of the fact that the meeting was duly conducted as scheduled in terms of the stated notice and the no confidence motion was passed by a majority, against the appellant. We, therefore, find no reason to depart from the conclusion recorded by the High Court for rejecting the challenge that no clear 15 days' notice was given as claimed by the appellant. Accordingly, this contention must fail and is rejected.

6. As aforesaid, since the stated notice has already been acted upon and the no confidence motion has been passed against the appellant by majority, no further enquiry into the grounds urged by the appellant is warranted. Be that as it may, even the first ground urged by the appellant has been justly negated by the High Court following the exposition of the Full Bench of the same High Court in *Smt. Sheela Devi Vs. State of U.P. and Ors.*,<sup>1</sup> which decision adverts to the dictum of another Full Bench decision of the same High Court in *Mathura Prasad Tewari Vs. Assistant District Panchayat Officer, Faizabad.*<sup>2</sup> In the impugned judgment, the Division Bench has reproduced paragraph 23 of the Full Bench decision in *Sheela Devi*, (supra) which reads thus:

“23. For these reasons, we have come to the conclusion that where a notice is delivered to the Collector under sub-section (2) of Section 15, the Collector has the discretion to determine whether the notice fulfills the essential requirements of a valid notice under sub-section (2). However, consistent with the stipulation of time enunciated in sub-section (3) of Section 15 of convening a meeting no later than thirty days from the date of delivery of the

<sup>1</sup> AIR 2015 All. 65

<sup>2</sup> 1966 ALJ 612

A notice and of issuing at least a fifteen days' notice to all the elected members of the Kshetra Panchayat, **it is not open to the Collector to launch a detailed evidentiary enquiry into the validity of the signatures which are appended to the notice. Where a finding in regard to the validity of the signatures can only be arrived at in an enquiry on the basis of evidence adduced in the course of an evidentiary hearing at a full-fledged trial, such an enquiry would be outside the purview of Section 15. The Collector does not exercise the powers of a Court upon receipt of a notice and when he transmits the notice for consideration at a meeting of the elected members of the Kshetra Panchayat.** Hence, it would not be open to the Collector to resolve or enter findings of fact on seriously disputed questions such as forgery, fraud and coercion. However, consistent with the law which has been laid down by the Full Bench in Mathura Prasad Tewari's case, it is open to the Collector, having due regard to the nature and ambit of his jurisdiction under sub-section (3) to determine as to whether the requirements of a valid notice under sub-section (2) of Section 15 have been fulfilled. The proceeding before the Collector under sub-section (2) of Section 15 of the Act of 1961 is more in the nature of a summary proceeding. The Collector for the purpose of Section 15, does not have the trappings of a Court exercising jurisdiction on the basis of evidence adduced at a trial of a judicial proceeding. Whether in a given case, the Collector has transgressed the limits of his own jurisdiction is a matter which can be addressed in a challenge under Article 226 of the Constitution. We clarify that we have not provided an exhaustive enumeration or list of circumstances in which the Collector can determine the validity of the notice furnished under sub-section (2) in each case and it is for the Collector in the first instance and for the Court in the exercise of its power of judicial review, if it is moved, to determine as to whether the limits on the power of the Collector have been duly observed."

(emphasis supplied)

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7. Notably, this Court in the case of *Kiran Pal Singh Vs. The State of Uttar Pradesh & Ors.* (in C.A. No.2622 of 2018 decided on 17<sup>th</sup> May, 2018)<sup>3</sup> has had an occasion to explicate on the purport of Section 15(2) of the Act. In paragraph 15 of this decision the Court observed thus:

“15. To appreciate the controversy, we have to understand the scheme engrafted under Section 15 of the Act. Subsection (2) of Section 15 provides that a written notice of intention to make the motion in such form as may be prescribed, signed by at least half of the total number of elected members of the Kshetra Panchayat for the time being together with a copy of the proposed motion, shall be delivered in person, by any one of the members signing the notice, to the Collector having jurisdiction over the Kshetra Panchayat. Subsection (3) requires the Collector to convene a meeting. **At this stage, the jurisdiction that the Collector has is only to scan the notice to find out whether it fulfills the essential requirements of a valid notice. The exercise of the said discretion, as we perceive, has to be summary in nature. There cannot be a detailed inquiry with regard to the validity of the notice.** We are obliged to think so as subsection (3) mandates that a meeting has to be convened not later than 30 days from the date of delivery of the notice and further there should be at least 15 days’ notice to be given to all the elected members of the Kshetra Panchayat. **The Collector, therefore, should not assume power to enter into an arena or record a finding on seriously disputed questions of facts relating to fraud, undue influence or coercion. His only duty is to determine whether there has been a valid notice as contemplated under Sub section (2) of Section 15. His delving deep to conduct a regular inquiry would frustrate the provision. He must function within his own limits and leave the rest to be determined in the meeting.**”

(emphasis supplied)

8. In view of the above, the ground urged by the appellant that the Collector ought to have enquired into the validity of the signatures of 10

<sup>3</sup> 2018 (7) SCALE 605

A members, who subsequently filed affidavits stating that their signatures were obtained by fraud, had been justly negated by the High Court. Hence, the impugned judgment does not warrant any interference. As no other contention has been urged, the appeal must fail.

9. Accordingly, the appeal is dismissed with no order as to costs.

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Divya Pandey

Appeal dismissed.