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SPECIAL CIVIL APPLICATION NO. 917 OF 1981

Date of Decision : 31.1.1996

For Approval & Signature

THE HON'BLE MR. JUSTICE A.R DAVE

AND

THE HON'BLE MR. JUSTICE

1. Whether reporters of Local Papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any other order made thereunder ?

5. Whether it is to be cir...

Civil Judge ?

Mr. H.M. Mehta , Senior Advocate for the Petitioner
Respondents Served.

CORAM : A.R DAVE, J.

31.1.1996

ORAL JUDGMENT :

The petitioner- Sarpanch of Godhavata Gram

Panchayat (hereinafter referred to as the 'Panchayat') has challenged the validity of the order dated 12th February 1980 passed by the Addl. Development Commissioner, Gujarat State, whereby the order dated 18th December 1979 passed by the District Development Officer, Ahmedabad District Panchayat appointing six persons as the members of the Panchayat was confirmed.

The facts in nutshell with regard to the present petition are as under :-

Election of members of the Panchayat was scheduled to be held on 14th June, 1979. No nomination was received and, therefore, ultimately, the Ahmedabad District Panchayat (herein after referred to as the 'District Panchayat') had to exercise its powers under the provisions of sec.19 of The Gujarat Panchayats Act, 1961 (hereinafter referred to as 'the Act') for appointing members of the said Panchayat. According to the provisions of sec.19 of the Act, if for any reason, election does not result in the return of the required members of qualified persons willing to take office, then in case of a Gram Panchayat, District Panchayat shall as soon as possible, appoint from the persons qualified to be elected, such personos as are necessary to make up the required number of the members of the Panchayat. The persons who are appointed shall be deemed to have been duly appointed to the relevant panchayat and the names of the members so appointed shall be published by the appointing authority in the prescribed manner. In pursuance of the provisions of the above-referred section, the Executive Committee of the Dist. Panchayat had resolved on 30th November, 1979 to appoint respondent nos. 3 to 8 as members of the Panchayat. The said decision of the Executive Committee was ultimately notified by the District Development Officer of Dist. Panchayat by his order dated 18th December, 1979.

It is the case of the petitioner that the persons who were appointed as members of the Panchayat by the Dist. Panchayat in pursuance of the recommendation made by the out-going Sarpanch and members of the Panchayat by passing ressolution on 13th June, 1979, were not suitable for smooth and efficient functioning of the Panchayat as they were recommended by a Sarpanch and members of an outgoing body. The petitioner, who was an elected Sarpanch, had also recommended names of six persons for being appointed as the members of the Panchayat.

The Executive Committee of the Dist. Panchayat thought it proper to accept recommendation made by the members of the Panchayat under resolution dated 13th June, 1979 and accordingly respondent nos. 3 to 8 were appointed as members of the Panchayat.

Being aggrieved by the above-referred notification dated 18th December, 1979 whereby respondent nos. 3 to 8 were

appointed as members of the Panchayat, the petitioner had approached the Addl. Development Commissioner, Gujarat State by filing Revision Application No. 1/80. The said Revision Application was dismissed by the order dated 12th February, 1980 (Annex.B to the petition).

Being aggrieved by the above-referred decision of the Addl. Development Commissioner, Gujarat State, the petitioner has approached this Court under provisions of Article 226 of the Constitution of India.

It is pertinent to note that the period for which respondents nos. 3 to 8 were appointed as members of the Panchayat, has already come to an end by efflux of time. Respondent nos. 3 to 8 are no more members of the Panchayat at present. The petition has thus practically become infructuous.

It is, however, pertinent to note that the Dist. Panchayat had duly considered the recommendation made by the Panchayat and after considering the said recommendation, the Executive Committee of the Dist. Panchayat had passed resolution dated 13th June 1979 whereby respondents nos. 3 to 8 were appointed as the Members of the Panchayat. Ultimately, the said resolution was duly notified on 18th December, 1979 by the District Development Officer.

It is clear from the record that respondent nos. 3 to 8 were not suffering from any disqualification for being appointed as members of the Panchayat. The grievance made by the petitioner is with regard to his strained relations with some of the members and therefore he believed that it would not be possible for him to work smoothly with the said members and due to their strained relations, working of the Panchayat would be adversely affected.

According to the provisions of sec.19 of the Act, the District Panchayat has to decide as to who should be appointed as the member of the Panchayat and in the instant case, the Executive Committee of the Dist. Panchayat had accepted the recommendation of the Panchayat while exercising its powers under the provisions of sec.19 of the Act.

There does not appear to be any malafide intention on the part of the Dist. Panchayat in the process of appointing respondents nos. 3 to 8 as members of the Panchayat under the provisions of sec.19 of the Act. I do not see any illegality in the exercise of the powers by Dist. Panchayat and even the impugned order passed in Rev. Application No. 1/80 by the Addl. Development Commissioner, Gujarat State dated 12th February, 1980 also appears to be just, legal and proper.

In view of above-referred circumstances and especially in

view of the fact that the term for which respondent nos. 3 to 8 were appointed has already come to an end, the petition is dismissed. Rule is discharged with no order as to costs.
