

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND EIGHT

PRESENT
HON'BLE MR JUSTICE RAMESH RANGANATHAN
WRIT PETITION No: 25982 of 2008

Between:

B.Ravinder S/o.B.Rajaiah
R/o.H.No.8/43, Vinayaka Nagar Colony, Medipalli Village,
Gatkesar Mandal, Ranga Reddy District.

..... **PETITIONER**

AND

The Revenue Divisional Officer, Ranga Reddy (East Division
Ranga Reddy District, Goshamahal, Hyderabad.

..... **RESPONDENT**

Petition under Article 226 of the constitution of India praying
that in the circumstances stated in the Affidavit filed herein the High
Court will be pleased to issue a Writ of Mandamus declaring the
impugned notice in Roc.No.J/5100/2008 dated 12-11-2008 issued
by the respondent herein as illegal, improper, unjust and contrary to
Sub-Section (1) of Section 245 of Panchayat Raj Act 1994 and also
contrary to Rules 2 & 3 of Rules issued in GO Ms.No.200 (PR&RD)
Department, dated 20-04-1998 and pass such other order in the
interest of justice.

Counsel for the Petitioner:MR.K.RAMAMOHAN-MAHADEVA

**Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ &
RURAL DEV.**

The Court made the following :

ORDER:

Challenge to a 'no confidence motion' moved against the Upa-Sarpanch of Medipalli Gram Panchayat is the subject matter of the present writ petition.

2. It is wholly unnecessary for this Court to refer to all the facts stated in the affidavit in detail. Suffice to note that the petitioner was elected as the 7th ward member of Medipalli Gram Panchayat in 2006 and was elected as Upa-Sarpanch of the Gram Panchayat on 18-08-2006. A written requisition by ten ward members was submitted to the respondent on 07-11-2008 expressing no confidence against the petitioner on the ground that he had violated the provisions of the Andhra Pradesh Panchayat Raj Act, 1994, and had acted against the developmental activities of the Gram Panchayat.

3. Sri K.Rama Mohan Mahadev, learned counsel for the petitioner, would contend that the requisition submitted by the ten ward members to the respondent herein is illegal. Learned counsel would point out that the Rules for moving a no confidence motion against a Upa-Sarpanch of Gram Panchayat are those notified in G.O.Ms.No.200 dated 28-04-1998, that under Rule 2 of those Rules notice of the intention to make the motion should be in Form No.I duly signed by not less than half of the total number of the members of the Gram Panchayat, that the said notice along with a copy of the proposed motion should be delivered in person by any two of the members who signed such notice to the Revenue Divisional Officer and that the notice in Form No.I was not delivered in person by two of the

members who signed the notice.

4. With a view to ascertain whether this contention was valid, the Government Pleader for Panchayat Raj was called upon to produce the records. The records have been produced and, on a perusal thereof, it is evident that two of the ward members, who had signed the notice, have delivered the notice in Form No.I along with its enclosures in person to the respondent herein.

5. Sri K.Rama Mohan Mahadev, learned counsel for the petitioner, would further contend that, while the notice in Form No.I is required to be accompanied by a copy of the proposed motion, the ten ward members had merely enclosed the letter addressed by them to the respondent along with the notice in Form No.I and that a copy of the proposed motion was not enclosed. Learned counsel would further contend that, since several allegations were made in the letter enclosed to Form No.I, the truth or otherwise thereof had to be enquired into and could not form the basis for a no confidence motion and, since no enquiry was held to ascertain the truth or otherwise of these allegations, such a notice in Form No.I ought to have been rejected by the respondent. Learned counsel would place reliance on the judgments of this Court in **DR. TADIBOINA**

MASTHANAMMA vs. STATE OF ANDHRA PRADESH [1];
B.PAATCHA AND ANOTHER vs. COMMISSIONER OF
FISHERIES [2] and the Division Bench judgment of this Court in
S.JAYARAMAIAH vs. GOVT. OF A.P. [3].

6. Along with the notice in Form No.I, the ten ward members had enclosed a letter addressed to the Revenue Divisional Officer which, for convenience sake, is extracted in its entirety.

"Translated copy

To
The Revenue Divisional Officer
East Division
Rangareddy District.

Sir,

Sub: Calling no-confidence motion against Upa-Sarpanch, Sri B.Ravinder, Medipally Gram Panchayat – Reg.

Sri B.Ravinder, Upa-Sarpanch has not been followed the Gram Sarpanch rules and also he apposed developments of the Gram Panchayat. So, he lost confidence of the ward members of the Gram Panchayat. The under signed majority members are declared in one voice saying that he lost the confidence of the majority members.

Therefore, all the undersigned members are requested you sir, kindly convene the Gram Panchayat meeting under Section 245 of Gram Panchayat Act, to call for the no-confidence motion against Sri B.Ravinder, Upa-Sarpanch of Medipally Gram Panchayat.

1. G.Pantaiah Goud (Ward-1)
2. –
3. M.Kalavathi (Ward-3)
4. Satyanarayana Reddy (Ward-4)
5. Yadagiri (Ward-5)
6. C.Maheswar (Ward-6)
7. –
8. K.Bhoolakshmi (Ward-8)
9. Sailoo (Ward-9)
10. K.Devi Singh (Ward-10)
11. Ch.Mangamma (ward-11)
12. B.Narasamma (ward-12)"

It is evident therefrom that the ten ward members who moved the no confidence motion had specifically stated therein that the petitioner had lost their confidence and that the majority members had declared in one voice stating that he had lost the confidence of the majority, in addition, the signatories to the letter have also stated that they were all requesting the respondent to convene a Gram Panchayat meeting to move a no confidence motion against the petitioner.

7. The question which arises for consideration is whether this enclosure to Form No.I can be said to be a proposed motion of no confidence?

8. In this context, it is necessary to bear in mind that, while the

notice has to be made in a prescribed form, (Form No.I), the rules do not prescribe any particular form or the manner in which the proposed motion is to be couched. The proposed motion of no confidence can only mean an expression of intent by the members concerned that they had lost confidence in the Upa-Sarpanch against whom they proposed to move a no confidence motion. The ingredients of the enclosure to Form No.I satisfy this requirement.

9. In *DR. TADIBOINA MASTHANAMMA*¹, two letters were addressed by the ward members of Tenali Municipality expressing no confidence in the Chairperson of the Municipal Council. In the said letters, they had specifically stated that a copy of the motion proposed to be made was enclosed. This Court observed that, though in both of the notices it was specifically stated that a copy of the motion proposed to be made was enclosed, the said copy of the motion proposed was not sent to the petitioner and so the notice was not in substantial compliance with the provisions of the Act. Unlike in *DR. TADIBOINA MASTHANAMMA*¹, in the case on hand, the annexure to Form No.I does not make any such mention. The annexure itself expresses lack of confidence in the petitioner as a Upa-Sarpanch and calls in question his continuance in the office.

10. In *B.PAATCHA*², all that this Court observed was that, under sub-sections 1 and 2 of Section 34-A of the Andhra Pradesh Cooperative Societies Act, 1964, the intending members, apart from issuing a written notice of their intention to make a motion, shall enclose a copy of the proposed motion and then only the Registrar can take cognizance of the notice and take further steps. In that case, a copy of the proposed motion was not enclosed. The judgment in *B.PAATCHA*², is also of no assistance to the petitioner, as in the present case the enclosure to Form No.I clearly shows

that the ten ward members proposed to move a motion of no confidence against the petitioner.

11. It is no doubt true that in the annexure to Form No.I the signatories had specifically stated that petitioner had not followed the Gram Sarpanch Rules and had also opposed the development of the Gram Panchayat. The question is whether such allegations would vitiate the notice in Form No.I.

12. All that the Division Bench in **S.JAYARAMAIAH³**, observed was that Section 245 of the Andhra Pradesh Panchayat Raj Act, 1994, required a motion expressing want of confidence, that the Section did not require the motion to contain reasons and the grounds on which the signatories wanted to express no confidence and that no right of any member including the Chairman was violated merely because reasons for expressing no confidence had not been given. While failure to give reasons may not vitiate a no confidence motion, it cannot be said that reasons being assigned for moving a no confidence motion would necessitate an enquiry to be held in that regard and that mention of the allegations would disentitle the signatories from proposing or moving a no confidence motion. The question whether allegations being made or reasons being furnished in the annexure to Form No.I to propose the motion of no confidence would vitiate the notice of no confidence did not arise for consideration in **S.JAYARAMAIAH³**. The said judgment is also of no assistance to the petitioner.

13. Viewed from any angle, there is no justification in interdicting the meeting being held tomorrow for moving the no confidence motion against the petitioner. Admittedly, the notice in Form No.I has been signed by 10 out of the 12 ward members of the Gram

Panchayat and satisfies the requirement of more than one-half of the members expressing lack of confidence in him.

14. The writ petition fails and is, accordingly, dismissed. However, in the circumstances, without costs.

RAMESH RANGANATHAN, J

28th November 2008
CVRK

[1] W.P.No.22934 of 2008 dated 22-10-2008

[2] W.P.No.19654 of 2008 dated 09-09-2008

[3] 1998(2) ALT 180 (D.B.)