

W.P. (C) No. 652 of 2017

BEFORE

HON'BLE THE ACTING CHIEF JUSTICE MR. N. KOTISWAR SINGH

30.08.2017

Heard Mr. Zequeson, learned counsel appearing for the petitioners; heard also Mr. Athouba Khaidem, learned G.A., for the state respondents; and Mr. Romendro Sharma, learned counsel for the private respondent.

Mr. Zequeson, learned counsel appearing for the petitioners has raised the issue as to whether the presiding officer in the meeting has the right to cast his vote or second vote in case of tie. It has been submitted that the vote of No-Confidence Motion is proposed to be held against the Vice-Chairperson of the Thoubal Municipal council on 01.09.2017 vide notification dated 22.08.2017. However, nothing has been provided under the said notification as regards the right of the presiding officer to cast his first vote as well as second vote. Mr. Zequeson, learned counsel appearing for the petitioners submits that though it is not mentioned in the said special meeting, Section 51 of the Manipur Municipalities Act, 1994 can be made applicable in which event the presiding officer shall have a second or casting vote also in case of tie.

Mr. Romendro Sharma, learned counsel for the private respondent submits that in case of tie, the presiding officer shall have a second casting of vote under Section 51 of the Act. Accordingly, parties submit that in the said meeting proposed to be held on 01.09.2017, that Section 51 of the Act can be invoked if there is a tie in the vote in which event, the presiding officer shall have a second or casting vote.

Section 51 of the Act provides that in case of equality of votes, on any question, the presiding officer shall have a second or casting vote. The fact that a presiding officer shall have a second vote would mean that he must have been given the first vote also. Be that as it may since there is unanimity as per the present petitioners as well as respondents are concerned that the Section 51 of the Manipur Municipalities Act, 1994 will be applicable, this Court would not make any further observation in this regard and let the meeting go ahead as proposed under the notice dated 22.08.2017.

Mr. Zequeson, learned counsel for the petitioner, however submits that there is already a process to consider a No-Confidence Motion against the Chairperson, who will preside over the meeting in the present proposed meeting to be held on 01.09.2017 though his fate is yet to be decided. Thus, it is doubtful whether the presiding officer, whose fate is yet to be decided, can preside over the proposed meeting or not. However, it has been stated by learned counsel for the respondents that so far no effective resolution has been passed against the Chairperson and he continues to be the Chairperson.

Be that as it may, as on today, there is no resolution passed against the Chairperson of the Municipal Council, Thoubal. Therefore, this Court does not wish to make any observation about this except to say that unless the Chairperson is removed in accordance with the provisions of the Act, the said Chairperson will be deemed to be continuing to be the Chairperson.

Accordingly, this Court is of the view that there is no real */is* existing between the contending parties as far as the present petition is concerned and accordingly, the present petition stands closed.

ACTING CHIEF JUSTICE

Sandeep