REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2622 OF 2018
(Arising out of S.L.P. (CIVIL) NO. 1724 of 2018)

Kiran Pal Singh **Appellant(s)**

VERSUS

The State of Uttar Pradesh & Ors. **Respondent(s)**

J U D G M E N T

Dipak Misra, CJI.

India, a vast country, lives in villages. The Gram Sabhas in the ancient era were conferred certain powers so that there could be a feeling of participation in the societal and local issues and also to establish a socio-cultural amity among the members of the collective. History records with satisfaction that panchayats were able to settle disputes amongst the villagers and they had many a tool to focus on unity. Mahatma Gandhi, the father of the nation, emphasized on many an occasion that people should go to the villages to realize the true character of real India. He had said with emphasis that ""India lives in her seven hundred

thousand villages" and "the soul of India lives in its villages". The Constituent Assembly debates reflected on the importance of the villages but it thought appropriate to incorporate the concept of village panchayats in Article 40 of the Constitution which occurs in Chapter IV dealing with Directive Principles of State Policy. The said article provides that the State shall take steps to organize village panchayats and endow them with such powers and authorities as may be necessary to enable them to function as units of self-government. The said article, as is evincible, only requires the State to take steps to confer such powers.

2. With the passage of time, it was realized that there had been no real decentralization of powers. In the absence of basic decentralization of powers travelling to the mores in one of the largest democracies like India, it was felt that the real purpose of social transformation could not be achieved. It was acknowledged and accepted that the people at the grass root level deserved to be politically, economically and socially empowered and the Seventy Third Amendment was brought into the framework of our organic Constitution with the clear intent of having local self-government. The vision, it can be said with certitude, is sacred and the same is explicit from the Statement of Objects and

Reasons of the Seventy Third Amendment to the Constitution. It reads as follows:-

> "Though the Panchayati Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersessions, insufficient representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.
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> 2. Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience in the last forty years and in view of the short-comings which have been observed, it is considered that there is an imperative need to enshrine in the Constitution certain basic and essential features of Panchayati Raj Institutions to impart certainty, continuity and strength to them.
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> 3. Accordingly, it is proposed to add a new Part relating to Panchayats in the Constitution to provide for among other things, Gram Sabha in a village or group of villages; constitution of Panchayats at village and other level or levels; direct elections to all seats in Panchayats at the village and intermediate level, if any, and to the offices of Chairpersons of Panchayats at

such levels; reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chairpersons in Panchayats at each level; reservation of not less than one-third of the seats for women; fixing tenure of 5 years for Panchayats and holding elections within a period of 6 months in the event of supersession of any Panchayat; disqualifications for membership of Panchayats; devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic developments and social justice and for the implementation of development schemes; sound finance of the Panchayats by securing authorisation from State Legislatures for grants-in-aid to the Panchayats from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayats of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance Commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of Panchayats; auditing of accounts of the Panchayats; powers of State Legislatures to make provisions with respect to elections to Panchayats under the superintendence, direction and control of the chief electoral officer of the State; application of the provisions of the said Part to Union territories; excluding certain States and areas from the application of the provisions of the said Part; continuance of existing laws and Panchayats until one year from the commencement of the proposed amendment and barring interference by courts in electoral matters relating to Panchayats."

3. The amendment saw the introduction of Articles 243 to 243-O which are meant for the panchayats at different levels that include Article 243(d) which defines 'Panchayat' to mean an institution (by whatever name called) of self-government (constituted under Article 243B) for the rural areas. The said articles ignited the spirit of self-governance in the pyramidical structure of local self government. The democratically organized units have been conferred powers of governance and the purpose as envisioned is to instill a sense of satisfaction in the people at the grass root level. It has been so recognized in ***Bhanumati etc. etc. v. State of U.P. and others***[1]. The two-Judge Bench in the said case has expressed thus with lucidity:-

> "32. What was in a nebulous state as one of Directive Principles under Article 40, through 73rd Constitutional Amendment metamorphosed to a distinct part of Constitutional dispensation with detailed provision for functioning of Panchayat. The main purpose behind this is to ensure democratic decentralization on the Gandhian principle of participatory democracy so that the Panchayat may become viable and responsive people's bodies as an institution of governance and thus it may acquire the necessary status and function with dignity by inspiring respect of common man."

1 AIR 2010 SC 3796 : (2010) 12 SCC 1

4. The singular purpose of so stating is that the source of power has been incorporated in the Constitution which requires the States to make law to carry out the constitutional command. The structure of the panchayats, the concept of Gram Sabha, the composition of panchayats, reservation of seats, duration of panchayats, disqualification for membership, powers, authority and responsibility of panchayats and conferment of power on the panchayats to impose taxes, duties, tolls and fees, election to the panchayats, and creation of bar for courts to interfere in electoral matters clearly show the distinct identity carved out for the panchayats. The legislations made by the State legislatures, *inter alia*, have fixed the tenure of the panchayats and also grant protection for continuance of the elected members subject to the disqualifications and further the method for vote of no confidence. We shall dwell upon the said aspect after delineation of the facts of the case.

5. In the instant case, the appellant was elected as Pramukh, Kshettra Panchayat Vikash Khand Gulawati, District, Bulandshahr in the election held in the year 2015. Some of the members of the said panchayat moved an application under Section 15(2) of the Uttar Pradesh Kshettra Panchayats and Zila

Panchayats Adhiniyam, 1961 (for brevity, "the Act") before the District Magistrate/Collector, District Bulandshahr for carrying out a no confidence motion against the Pramukh. As no action was taken by the District Magistrate/Collector, one of the movers of the motion preferred Civil Misc. Writ Petition No. 49013 of 2017 in the High Court of Judicature at Allahabad seeking direction to the competent authority to accept the notice dated 09.10.2017 under Section 15(2) of the Act and to take appropriate steps for bringing logical end to the no confidence motion.

6. The Division Bench of the High Court on 24.10.2017 asked the learned Additional Chief Standing Counsel to obtain instructions and posted the matter on 01.11.2017. On the date fixed, the Writ Petition was dismissed as not pressed. It is not necessary to advert under what circumstances the said writ petition was dismissed as not pressed.

7. As the facts would further uncurtain, on 31.10.2017 another written notice of intention to make the motion of no confidence was delivered to the District Magistrate/Collector, Bulandshahr with signature of 35 members. The District Magistrate/Collector issued notice on 07.11.2017 to convene a

meeting of Kshettra Panchayat for consideration of the motion of no confidence at 10.30 a.m. on 27.11.2017 in the office of Kshettra Panchayat. On the said date, in the presence of the authorized officer, the vote of no confidence motion was considered and, eventually, after casting of votes, the no confidence motion was passed by 32 votes against the appellant.

8. In pursuance of the said proceedings, the post of Pramukh fell vacant and a public notice was issued on 21.02.2018 for holding the election on 09.03.2018 and the respondent No.11 was elected. We may hasten to add that we are really not concerned with the passing of vote of no confidence motion or the election of the respondent No.11 in the subsequent election.

9. Suffice it to state that the appellant knocked at the doors of the High Court under Article 226 of the Constitution assailing the second notice for want of confidence on the foundation of statutory impermissibility. It was contended before the High Court that under Section 15(2) of the Act, the District Magistrate/Collector had completely erred in accepting the notice of intention to convene a meeting and, therefore, the ultimate result of the said meeting is sans effect. The High Court, by the impugned order dated 22.11.2017, negatived the said contention

and dismissed the writ petition. Hence, the present appeal by way of special leave.

10. Presently, we shall scrutinize the relevant statutory scheme. Section 8 of the Act provides for the term of Kshettra Panchayat and its members. Section 9 deals with the term of Pramukh. It lays the postulate that save as otherwise provided in the Act the term of office of a Pramukh of a Kshettra Panchayat shall commence upon his election and shall extend up to the term of the Kshettra Panchayat. Section 11 deals with resignation of Pramukh or a member. Section 13 deals with disqualification for membership of Kshettra Panchayat. Section 15 deals with motion of non-confidence in Pramukh. Sub-section (1) of Section 15 stipulates that a motion expressing want of confidence in the Pramukh of a Kshettra Panchayat may be made and proceeded with in accordance with the procedure laid down in the subsequent sub-sections. Sub-section (2) of Section 15 requires the 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 Kshettra Panchayat for the time being together with a copy of the proposed motion, to be delivered in person, by any one of the members signing the notice, to the

Collector having jurisdiction over the Kshettra Panchayat. Sub-section (3) of Section 15, by employing the word 'shall', makes it obligatory for the Collector, upon receiving a written notice as aforesaid, to convene a meeting at the office of Kshettra Panchayat for consideration of the motion within 30 days from the date on which the notice under Section 15(2) is delivered to the Collector. Further, the Collector is also obligated to give to the elected members of the Kshettra Panchayat a notice, in such a manner as may be prescribed, at least 15 days prior to the meeting which he is required to convene. That apart, the explanation appended to sub-section (3) to Section 15 stipulates that for the purposes of calculating 30 days specified in this sub-section, the period during which any stay order issued by a competent court on a petition filed against the motion is in force plus such further time as may be required for issuing of fresh notices of the meeting to the members, shall be excluded.

11. Sub-section (4) of Section 15 postulates that the sub-divisional officer of the sub-division in which the Kshettra Panchayat exercises jurisdiction shall preside over the meeting convened for consideration of the motion at the office of the Kshettra Panchayat. The subsequent sub-sections of Section 15

stipulate that no debate on the motion under Section 15 shall be adjourned and the Presiding Officer shall not speak on the merits of the motion. Also, he is not entitled to vote in the motion.

12. Sub-section (11)(a) of Section 15 provides that if the motion is carried with the support of more than half of the total number of elected members of the Kshettra Panchayat, the Presiding Officer shall cause this fact to be published by affixing a notice on the notice board of the office of the Kshettra Panchayat and also by notifying the same in the Gazette. Sub-section (11)(b) of Section 15 stipulates the consequences of a successful motion being carried out to the effect that the Pramukh of the Kshettra Panchayat ceases to hold office and is required to vacate the same on and from the date next following that on which the said notice is fixed on the notice board of the office of the Kshettra Panchayat.

13. Sub-section (12) of Section 15 deals with the situation when a motion is not carried as contemplated by the aforesaid sub-sections of Section 15. For our purposes, sub-section (12) of Section 15, being pertinent, is reproduced below:-

> "(12) If the motion is not carried as aforesaid or if the meeting could not be

> held for want of quorum, no notice of any subsequent motion expressing want of confidence in the same Pramukh shall be received until after the expiration of one year from the date of such meeting."

14. The aforesaid provision is absolutely clear and unambiguous. The conditions precedent for stipulation of the period of one year after the expiration from the date of such meeting are dependent on three situations, namely, (i) if the motion is not carried out as contemplated under sub-section (11), (ii) if the meeting would not be held for want of the quorum and, (iii) the notice of no confidence motion should be in respect of the same Pramukh.

15. To appreciate the controversy, we have to understand the scheme engrafted under Section 15 of the Act. Sub-section (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 Kshettra 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 Kshettra Panchayat. Sub-section (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 sub-section (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 Kshettra 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.

16. We may now note the stand that was put forth before the High Court. It was contended that during the pendency of the 1st notice, the 2nd notice could not have been issued. There was no assertion that the meeting was convened pursuant to the 1st notice in the manner in which the statute provides for the same.

The words "not carried out" as aforesaid are of immense significance. The meeting has to be convened as per the provisions of the said Section. The second part relates to want of the quorum. Though the quorum has not been defined under the Act, yet in the context, it would mean the quorum that requires the number of members to be present for the purpose of voting. For example, if the notice of intention is given to the Collector by more than half of the total members in Kshettra of 40 members but on the date of the meeting, there are only 10 members, indubitably there is a lack of quorum. Similarly, when the quorum is there and voting takes place, but eventually the vote of no confidence fails then the motion is not carried out as per the provisions contained in Section 15. To understand the concept of quorum, we may refer with profit to the authority in ***The Punjab University, Chandigarh v. Vijay Singh Lamba and othres***[2], wherein while discussing about quorum, the Court had held:-

> "7. …'Quorum' denotes the minimum number of members of any body of persons whose presence is necessary in order to enable that body to transact its business validly so that its acts may be lawful. …"

2 (1976) 3 SCC 344

17. In **Corpus Juris Secundum, Volume 74**, the word 'quorum' has been defined as follows:-

> "The word 'quorum', now in common use, is from the Latin and has come to signify such a number of officers or members of any body, as is competent by law or constitution to transact business;... Quorum of a body is an absolute majority of it unless the authority by which the body was created fixes it at a different number."

18. In **Black's Law Dictionary (Second Edition)**, the word 'quorum' is defined as under:-

> "When a committee, board of directors. meeting of shareholders, legislative or other body of persons cannot act unless a certain number at least of them are present, that number is called a "quorum." Sweet. In the absence of any law or rule fixing the quorum, it consists of a majority of those entitled to act. See Ex parte Willcocks, 7 Cow. (N.Y.) 409, 17 Am. Dec. 525; State v. Wilkesville Tp.. 20 Ohio St. 293; Heiskell v. Baltimore, 65 Md. 125, 4 Atl. 136, 57 Am. Rep. 308; Snider v. Rinehart, 18 Colo. 18, 31 Pac. 716."

19. In this context, reference to sub-section (6) of Section 15 is fruitful. It reads thus:-

> "(6) As soon as the meeting convened under this section commences, the Presiding Officer shall read to the Kshettra Panchayat the motion for the consideration of which the

> meeting has been convened and declare it to be open for debate."

It is quite clear that only when the number of persons are present and the meeting takes place, the debate under sub-section (6) comes into play. Thus, in the absence of quorum, the said provision will not come into play.

20. In the case at hand, there is no allegation that the meeting was convened to consider the previous notice dated 9th October, 2017, as provided in Section 15 and the motion was not challenged on any other ground or the lack of quorum. What is singularly contended is that once a notice is given under Section 15(2), another notice of no confidence shall not be received until after expiration of one year. The said submission is without any substance inasmuch as the prohibition under Section 15(12) would only come into play when there is meeting and the motion is "not carried out" as per the provisions of Section 15 or meeting could not be held for want of quorum. As the facts of the instant case would reveal that no meeting was convened to consider the previous notice dated 9th October, 2017, as per the provisions of the Act. Mere receipt of a notice by the Collector will not allow the prohibition under Section 15(12) to come into play. That is not

the purpose of the provision. That being the position, the ground urged by the learned counsel for the appellant that sub-section 15(12) would come into play is sans substratum. Neither of the conditions precedent is satisfied to attract the prohibition engrafted under Section 15(12) of the Act.

21. As we have stated earlier, the legislature being empowered by the Constitution has legislated to provide for the establishment of Kshettra Panchayats and Zila Panchayats in the Districts of Uttar Pradesh to undertake certain Governmental functions at Kshettra and District levels respectively in furtherance of the principles of democratic decentralisation of Governmental functions. It intends to empower the Panchayats and that is why, Section 9 clearly provides that the term of the office of Pramukh is for five years from the date appointed for its first meeting. That brings stability to the administration of the Gram Panchayat. Simultaneously, it also provides that the democracy at the rural level must cherish the values of democracy and, therefore, a Pramukh can be removed when a vote of no confidence is passed against him. Once the no confidence motion fails, it cannot be brought again for one year. It is worthy to note here that sub-section (13) of Section 15

provides that no notice of a motion under Section 15 shall be received within two years of the assumption of office by a Pramukh. This is in consonance with the principle of stability of rural governance. There are provisions for removal in case of misconduct and certain other situations with which we are not concerned. We have referred to this aspect to highlight how the legislature has visualized the democracy at the grass root level.

22. In view of the premised reasons, the appeal, being devoid of merit, stands dismissed. There shall be no order as to costs.

.....CJI.
(Dipak Misra)

.....J.
(A.M. Khanwilkar)

.....J.
(Dr. D.Y. Chandrachud)

New Delhi;
May 17, 2018