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CWP-32569-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(106)

CWP-32569-2024

Date of Decision: 03.12.2024

MAHINDRO DEVI AND ANOTHER

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present:- Mr. Vikram Singh, Advocate for the petitioners.

Mr. P.P. Chahar, Sr. D.A.G., Haryana.

SURESHWAR THAKUR, J. (Oral)

The present petitioner No.1 is presently serving as the Chairman of the Panchayat Samiti Pundri, District Kaithal, whereas, the petitioner No.2, is presently serving as the Vice Chairman of the Panchayat Samiti Pundri District Kaithal. The electoral college of the Panchayat Samiti Pundri, District Kaithal, who respectively elect the supra, also are empowered to subsequently pass a no-confidence motion against them.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONERS

2. Learned counsel for the petitioners(s) has vehemently challenged Annexure P-5 whereby the Additional Deputy Commissioner Kaithal, has re-convened a meeting, thus for considering the passing of no-confidence motion against the petitioners(s). To fortify the said submission, he contends that since through the previously made Annexure P-1 rather by



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the Additional Deputy Commissioner, Kaithal, the apposite meeting became convened on 11.11.2024 at 02:30 pm in the meeting hall of Panchayat Samiti, Pundri, thus for considering the no-confidence motion. Therefore, he has argued that since the said meeting was not convened, thereby an embargo became foisted upon the Additional Deputy Commissioner, Kaithal, to subsequently issue Annexure P-5, thus for the very same purpose. He supports the said submissions through drawing the attention of this Court to Annexure P-4, which was made subsequent to Annexure P-1, with a speaking therein, that since respectively 8 and 7 members of the Panchayat Samiti, thus subsequently withdrew their earlier requisition to convene, the meeting of the elected members of the Panchayat Samiti, rather for therein thus being considered the appositely tabled no-confidence motion against the Chairman and the Vice-Chairman. Therefore, he submits that thereby there was a strong tangible ground against the passing of Annexure P-5.

3. Be that as it may, it is submitted that since as unfolded by Annexure P-4 rather respectively 7 and 8 members, were not inclined to support the no-confidence motion, as may fall for consideration, in the convened meeting, thereby he argues that since in terms of the proviso to Section 62 of the Act 1994, thus for the successful passing of a no-confidence motion, the strength which is to be mustered for the successful passing of the no-confidence motion, but is required to be atleast $2/3^{\text{rd}}$ of the members, who are present and voting. In sequel, it is submitted that when post, the issuance of Annexure P-1, thus through Annexure P-4, respectively 7 to 8 members, withdrew their support against the tabling of no-confidence motion against the present petitioners. Therefore, he submits that necessarily in tandem therewith, the required strength for the requisitioning of the meeting for the no-confidence motion against the petitioners being



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considered, but suffers an apparent shortfall or is in deficit vis-a-vis the requisite 2/3rd majority. Resultantly the issuance of Annexure P-5 is contended to be vitiated, thus on account of breach being made to the proviso to Section 62 of the Act of 1994.

CONCLUSION OF THIS COURT

4. For determining the said controversy, it is necessary to allude to the provisions as encapsulated in Rule 10 of the Haryana Panchayati Raj Rules 1995 (hereinafter in short as “the Rules of 1995”), provisions whereof become extracted hereinafter. Moreover, it is also necessary to reproduce Section 62 of the Haryana Panchayati Raj Act, 1994 (hereinafter in short as “the Act of 1994”).

“10. No confidence motion against Chairman, Vice-Chairman, President, Vice-President (Section 62 and 123). (1) for purpose of Deputy Commissioner shall be the prescribed authority.

(2) The notice of meeting for considering motion of no confidence shall be issued atleast seven days before the date fixed for the meeting, intimating the date, time and place of meeting by proclamation by beat of drum, in the Sabha concerned and by affixing a copy of same on the notice [boards of the offices of concerned Gram Panchayats, Panchayat Samiti(s) and Zila Parishad] and at other conspicuous places in the village. The notice shall also be issued to all the members by registered (A.D.) Post at their ordinary place of residence and also by affixing a copy of the same at the notice board of Office of Block Development and Panchayat Officer, Additional Deputy Commissioner and Deputy Commissioner and through any other expedient manner deemed proper.”



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62. Term of Office of Chairman and Vice-Chairman.- (1) *The term of office of the Chairman and vice-Chairman of a Panchayat Samiti shall be five years:*

Provided that the Chairman or Vice-Chairman shall cease to be the Chairman or Vice-Chairman if by a resolution passed by not less than two-thirds of the total number of its elected Members, the Panchayat Samiti decides at a meeting convened in the manner prescribed that he shall vacate his office:

Provided further that no such meeting shall be convened before the expiry of one year from the date on which the election to the Chairman or Vice-Chairman as the case may be, was notified and, after the expiry or such period, whenever such a meeting is convened during his term of office and the proposal for vacating the office fails, no further meeting shall at any time thereafter be convened for considering a similar proposal against the Chairman or Vice-Chairman unless a period of at least one year intervenes between the last failure and the date on which such further meeting is convened.

(2) An outgoing Chairman or Vice-Chairman shall be eligible for fresh election if otherwise qualified.

5. A reading of Rule 10 of the Rules of 1995, which relates to the procedure for requisitioning a meeting, thus for considering a no-confidence motion, unfolds, that the relevant meeting is to be convened only subject to a notice for considering the said motion becoming issued at least 7 days before the date fixed for the meeting and the said notice making an intimation to all concerned about the date, time and place of meeting, thus by proclamation



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by beat of drum, in the Sabha areas concerned besides by fixing a copy of the same on the board, besides subject to the other conditions made therein, whereby an information is rendered to the electoral college concerned.

6. Though, it is not contested that Annexure P-1 and Annexure P-5, both became issued through compliance being made to the supra provisions as engrafted in Rule 10 of the Rules of 1995.

7. **HOWEVER, FOR THE REASONS TO BE ASSIGNED HEREINAFTER, THIS COURT DOES NOT FIND ANY FAVOUR WITH THE ARGUMENTS ADDRESSED BEFORE THIS COURT BY THE LEARNED COUNSEL FOR THE PETITIONERS.**

8. Initially for the reason that the said argument is purely surmisal and is anchored upon a complete misreading of the provisions as engrafted in the proviso to Section 62 to the Act of 1994. Learned counsel for the petitioners depended upon the said proviso to raise a ground to the extent, that the procedure envisaged for the requisitioning of the meeting, which was to consider the no confidence motion, thus envisaged that the strength of the requisitionees, thus, being imperatively co-equal to $2/3^{\text{rd}}$ members of the electoral college, which otherwise is required, only for the successful passing of no-confidence motion against the present petitioners.

9. Therefore, obviously unless the no-confidence motion is tabled and that too, in a convened meeting, thereupon alone the contemplation supra carried in the proviso to Section 62 of the Act of 1994, would come into play. Naturally the said proviso would not come into play when yet the meeting is to be convened on the scheduled date, but after compliance being made to the provisions of sub-rule 2 of Rule 10 of the Rules of 1995, rather is not held at all. Contrarily the scheduled meeting becoming attempted to be frustrated, by the petitioners, thus on theirs making the above imaginative argument, thus bereft of any vigor.



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10. Be that as it may, since there is no specific explicit provision in rule 10 of the Rules of 1995 relating to the valid requisitionings of the apposite meeting for considering the no-confidence motion, to be tabled then against the present petitioners, rather ensuing only when a certain, specified numerical strength of the electoral college, thus being the requisitionees. Consequently, for lack of explicit expression qua numbers of the requisitionees in sub-rule 2 (supra). Resultantly, assumingly if Annexure P-1 became made, thus on the basis of the strength of the requisitionees, being rather almost co-equal to the $2/3^{\text{rd}}$ of the coram, required for the successful passing of no-confidence motion against the present petitioners. Moreover, even if some of members of the electoral college may have through Annexure P-4, rather withdrawn their support to the other members of the electoral college, who intended to pass the no-confidence motion against the present petitioners, thus in the meeting to be so convened.

11. However, since as stated supra, there is no statutorily prescribed strength in rule supra, thus appertaining to the specific numbers of the requisitionees for enabling the well convening of the meeting for considering the no-confidence motion. Contrarily when the counsel for the petitioners has mis depended upon the proviso to Section 62 of the Act of 1994, to mis-argue that the strength mentioned therein, is to be the one to be mustered by the requisitionees of the meeting. Resultantly, even if Annexure P-4 was made subsequent to Annexure P-1 besides when therebys there was a reduction or decimation in the strength of the requisitionees, yet the $2/3^{\text{rds}}$ majority as per the supra proviso to Section 62 of the Act of 1994, rather was required only, for the successful passing of the no confidence motion. Even if the said reduction did not make the requisition notice to thus garner the requisite coram of $2/3^{\text{rd}}$ of the members of the electoral colleges. Nonetheless, for all the above stated reasons, especially when the statute



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does not prescribe the numerical strength of the requisitionees, thus for the well, askings for the able convenings of the meeting for considering the passing of a no confidence motion against the present petitioners. In sequel as stated supra the effect of Annexure P-4 whereby there was a reduction in the strength of requisitionees, thus becomes inconsequential. Imperatively the said was consequential, only for satisfying the apposite coram, for the successful passing of a no confidence motion against the present petitioners, which would happen only when the apposite meeting was so convened and not earlier thereto, thus for the purposes of convenings of the apposite meeting.

12. To sum-up, the argument(s) supra addressed before this Court for nullifying Annexure P-5, is completely bereft of any vigor and as such, is rejected and thus, finding no merit in the writ petition, the same is dismissed.

13. All the pending applications also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 03, 2024
mahima

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No