

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM &
ARUNACHAL PRADESH)
ITANAGAR BENCH.

WRIT PETITION(C) NO. 206 (AP) 2014

Smti Yura Yallong,
Wife of Shri Yura Kaha of Village-Lodokare,
PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh

.....**Petitioner.**

By Advocate:
Mr. B.L.Singh.
Mr. G. Kato,
Mr. S. Tashik.

-Versus-

1. The State of Arunachal Pradesh
To be represented by the Secretary
to the Govt. of Arunachal Pradesh,
Panchayat Department,
Itanagar.
2. The Deputy Commissioner,
Kurung Kumey District,
Koloriang.
3. The Circle Officer-cum-Member Secretary,
12-Tali, Anchal Samity Block, Tali.
4. Shri Tatung Tagio,,
Anchal Samity member, 128, Tongmar Segment,
PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh
5. Shri Hamam Tania, ASM,
139-Guchi Segment, PO-Tali,
PS-Sangram, District-Kurung Kumey,
Arunachal Pradesh.
6. Shri Dayum Takam, ASM,
132-Loa Segment, PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh.
7. Shri Gichik Tarh, ASM,
130-Thome Segment, PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh.
8. Shri Mui Take, ASM,
133-Ruchi Segment, PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh

9. Smti Tagiu Yajak, ASM,
131-Sartam Segment, PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh
10. Shri Taksang Tayang, ASM,
137-Gimba Segment, PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh
11. Shri Tadang Tasa, ASM
126-Hapek Segment, PO-Tali, PS-Sangram,
District-Kurung Kumey,
Arunachal Pradesh

.....Respondents.

By Advocates:
Mr. R. H. Nabam, Sr.G.A.

**BEFORE
THE HON'BLE MR. JUSTICE NISHITENDU CHAUDHURY**

Date of hearing : 23-06-2014

Date of Judgment & Order : 23-06-2014

JUDGMENT & ORDER (ORAL)

Heard Mr. B.L. Singh, learned counsel for the petitioner and Mr. R. H. Nabam, learned Sr. Govt. Advocate appearing on behalf of the State respondent Nos. 1 to 3.

2. By this application under Article 226 of the Constitution of India, the petitioner, Smti Yura Yallong, who is the Chairperson of 12-Tali Anchal Samity Block has challenged the Circular dated 16-06-2014 issued by the Circle Officer cum Member Secretary of Tali Anchal Samity Block, Tali, Kurung Kumey District, Arunachal Pradesh inviting meeting on 25-06-2014 at Palin IB at around 11.00 A.M. to discuss no confidence motion raised by the members claiming to constitute 2/3rd of the members of Anchal Samity 12- Tali Anchal Samity Block.

3. The present petitioner was elected by the 12-Tali Anchal Samity as its Chairperson and consequently a declaration was issued on 12-06-2014 to that effect by the competent authority. The aforesaid Anchal Samity consists of 16 members and 8 of them filed a representation before the Member Secretary of the 12-Tali Anchal Samity on 16-06-2014 informing that they lost confidence on the

Chairperson and accordingly, a proceeding within the meaning of Section 63 of the Arunachal Pradesh Panchayat Raj Act is required to be held to discuss the motion. Upon receipt of the requisition dated 16-06-2014, the Member Secretary issued the circular on the same day inviting the members to hold meeting on 25-06-2014. This notice is brought under challenge by the Chairperson.

4. Mr. B.L. Singh, learned counsel for the petitioner submits that the Member Secretary acted in undue haste in issuing the circular on the same day. He further argued that in issuing the circular, the Member Secretary was supposed to take prior concurrence of the Chairperson and as he himself took the decision, impugned action is unauthorized and illegal.

5. Mr. Nabam, learned Sr. Govt. Advocate appearing on behalf of the official respondent Nos. 1 to 3, on the other hand, submits that Section 63 does not contemplate of taking any prior concurrence of the Chairperson. According to the learned Sr. Govt. Advocate, the statute has not imposed on the Member Secretary any such duty or obligation and as such, the Court in exercise of its power under Article 226 of the Constitution of India, cannot add words to the statute holding that the Member Secretary before issuance of notice is not duty bound to take prior approval of the Chairperson against whom no confidence motion is raised.

6. After hearing the learned counsel for the parties and on perusal of the Circular dated 16-06-2014, it appears that prima facie, Member Secretary was satisfied that the application for holding no confidence meeting was signed by the 2/3rd number of the members of the said Anchal Samity. Once the Circle Officer cum Member Secretary, prima facie, arrived on such satisfaction, he missed no time to issue Circular inviting the meeting to move no confidence motion. Section 63 of the Arunachal Pradesh Panchayat Raj Act, 1997 lays down the procedure for holding no confidence motion.

Section 63 of the said Act is quoted below:-

“ 63. (1) A motion of no confidence may be moved by one-third of the total number of directly elected members of a Gram Panchayat or an Anchal Samity or a Zilla Parishad against its Chairperson after giving at least seven days notice in writing to the Member Secretary or any other prescribed authority of Gram

Panchayat a Anchal Samiti or Zilla Parishad of their intention to move such a motion.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of directly elected members of the Gram Panchayat or an Anchal Samiti or a Zilla Parishad, present and voting, the Chairperson shall cease to hold office.

(3) Notwithstanding anything contained in this Act, the Chairperson of a Gram Panchayat or an Anchal Samiti or Zilla Parishad shall not preside at a meeting in which a motion of no-confidence against him is under discussion, but he shall have the right to speak of otherwise take part in the proceedings of such meeting.”

7. Only pre-conditions imposed by Section 63(1) of the Arunachal Pradesh Panchayat Raj Act are that first, there has to be a move by at least one third of the total number of members of the Gram Panchayat or the Anchal Samity or Zilla Parishad as the case may be and secondly, that they must give at least seven days notice to the member Secretary or any other prescribed authority of the concerned local body. Section does not require any prior notice to the Chairperson by the Member Secretary. Since, Clause (2) of Section 63, requires that such no-confidence motion can be passed if at least two-third members support the motion, the predominant consideration must be that the meeting is attended by maximum number of members. Seven days notice to the Member Secretary is aimed at such consideration only.

8. The role of Member Secretary under Section 63 above, is limited to arranging for date, time and venue of the meeting. He has no adjudicatory function to discharge. Once, he is satisfied that at least one third of the total number of members have requisitioned the meeting and that at least seven days time has been given to him for the purpose, he is duty bound to extend executive assistance so that meeting as desired by the members can be held. After all being the Executive Head of the local body, Member Secretary alone is the in-charge of its management machinery. It is none of the concern of the Member Secretary to see as to whether the cause of grievance of the members is genuine or not, which is the prerogative of the directly elected members.

9. Next question arises to what extent a writ court can interfere in such matters?

Exercising writ jurisdiction under Article 226 of the Constitution of India, High Court can only examine as to whether the decision making process is vitiated for any reason. It may be either by violation of statutory procedure or by violation of the principles of natural justice. As discussed above, none of such exigencies has arisen in the present case. Member Secretary has not violated any mandate of Section 63 of the Aruanchal Pradesh Panchayat Raj Act. By the impugned notice all concerned have been notified as to the date, time and venue of the meeting and by such notice the purpose of natural justice has been fostered rather than frustrated. This writ petition, therefore, is devoid of any merit and accordingly it is dismissed.

No cost.

JUDGE

sd