

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.NO.23981 OF 2022

Between:

Darla Anand

... Petitioner

And

1. State of Telangana, rep by its Prl.Secretary
2. The District Collector (Pandhayat Division)
Jaya Shankar Bhupalapally District.
3. The Revenue Divisional Officer,
Bhupally Revenue Divisiona.
4. The Divisional Panchayat Officer
Bhupalapally Revenue Divisional
5. Mandal Panchayat Officer, Mogulapally Mandal.
6. The Panchayat Secretary,
Chintalapally Gram Panchayat.
7. Smt Lade Sammakka
8. Sri Kummari Srikanth
9. Smt Kummari Neela
10. Smt Pothraju Savita
11. Smt Muthyala Rajitha
12. Smt Mothkuri Swapna
13. Sri Kusumba Raghupathi.

... Respondents

JUDGMENT PRONOUNCED ON: 24.05.2022

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes/no
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes/no
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes/no

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.NO.23981 OF 2022

% 24.05.2022

Between:

Darla Anand

..... Petitioner

And:

\$ State of Telangana, rep by its Prl.Secretary
And others

.....Respondents

< Gist:

> Head Note:

! Counsel for the appellant: Mr. Mommineni Vivekananda

^Counsel for the respondents: Asst. G.P. for Panchayat
Raj

? Cases Referred:

¹(2015) 8 SCC 1

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.NO.23981 OF 2022****ORDER :**

1. Heard Sri Bommineni Vivekananda, learned counsel for the petitioners and Mrs A.Sunitha, learned Assistant Government Pleader for Panchayat Raj.

2. This writ petition is filed under Article 226 of the Constitution of India seeking writ of Mandamus declaring the action of the 3rd respondent in issuing the notice in Form 4 vide No.C/593/2022, dated 06.05.2022 calling for a meeting to consider the no confidence motion moved against the petitioner under Section 30 of the Telangana Panchayat Raj Act, 2018 without considering the complete factual circumstances as illegal, arbitrary and highhanded and further violative of Rights of the petitioner under Articles 14, 21 of the Constitution of India, 1950 and consequently quash the notice issued by

the 3rd respondent calling for a meeting to discuss the no confidence motion moved against the petitioner.

3. The case of the petitioner in brief is that the petitioner is elected as ward member for the 5th ward of the Chintalapalli Gram Panchayat, Mogupalli Mandal, Jaya Shankar Bhupalapally District in the year 2019 and thereafter, had been successfully elected as the Upa Sarpanch of the said Grampanchayat. The 7th respondent has been elected a Sarpanch of the Grampanchayat. It is further contended that the 7th respondent indulged in lot of corrupt practices and has also misappropriated a lot of panchayat funds and that the 7th respondent and her husband are also managing the Mandal level officers. Therefore, the petitioner was constrained to address letter dated 22.02.2022 to the 2nd respondent duly bringing to his notice about the misappropriation of funds by the 7th respondent and also about the involvement of the 7th respondent in number of corrupt practices. In pursuance of the request of the

petitioner for an enquiry into the matter, and after due enquiry conducted by the Mandal Panchayat Officer upon instructions of the 2nd respondent to the District Panchayat Officer to conduct an enquiry, a detailed report was submitted to the 2nd respondent vide letter dated 14.03.2022 by the Mandal Panchayat Officer in respect of the complaint made against the 7th respondent by the petitioner herein and the 2nd respondent passed orders on 23.04.2022 vide letter No.14/2021/A, whereby the 7th respondent has been temporarily suspended for a period of 6 months from the date of order. The 2nd respondent issued another order dated 28.04.2022 by which the petitioner herein had been asked to officiate as Surpanch temporarily due to the suspension of the 7th respondent. The petitioner further contends that the petitioner suddenly received notice in Form 4 issued by the 3rd respondent by which it was stated that certain ward members viz. respondents 8 to 13 have issued a notice in Form 1 as per Section 30(1) of the Telangana

Panchayat Raj Act, 2018 to make a motion expressing want of confidence against the petitioner. The said notice in Form 1 duly signed by all the respondent Nos. 8 to 13 has been submitted in the office of the 3rd respondent on 30.04.2022 and the 3rd respondent has issued notice vide No.C/593/2022, dated 06.05.2022 stating that in order to consider the said no confidence motion under Section 30 of the Telangana Panchayat Raj Act, 2018 a meeting shall be conveyed on 25.05.2022 at 11.00 am at Gram Panchayat Office. The petitioner further states that the said notice was delivered to the petitioner on 09.05.2022 in the evening.

4. Learned counsel for the petitioner mainly contended as follows:

1) That no confidence motion has been moved against the petitioner two days after the petitioner was appointed as officiating Surpanch for the Grampanchayat, Chintalapalli Village.

2) That no confidence motion is made by the 7th respondent and her husband malafidely, illegally to unseat the petitioner from the post of officiating Surpanch

3) That the 7th respondent has illegally influenced respondents 8 to 13 to move no confidence motion against the petitioner and that no confidence motion is with ulterior motive and therefore, the same is liable to be set aside as arbitrary and high handed.

5. Learned Assistant Government Pleader for Panchayat Raj, on the other hand, brings on record a copy of written instructions stating that Sri K.Srikanth, 1st Ward Member and (5) Ward members of Gram Panchayat, Chinthalapalli of Mogullapally Mandal have submitted letter of No Confidence Motion against petitioner, Upa Sarpanch, Chinthalpalli Village of Mogullapally Mandal on 30.04.2022 and that all the five ward members of Chinthalapalli Village of Mogullapally

Mndal have signed personally in Form-1 before the Revenue Divisional Officer, Bhupalpally on 30.04.2022, and in this regard vide office reference No.C/593/022, dated 30.04.2022 while enclosing a copy of no confidence motion letter and Form-1, the Mandal Parishad Development Officer, Mogullapally has been requested to verify the genuineness of signature of Ward Members signed in the notice with reference to Gram Panchayat records and further requested to furnish the details and address of all the ward members, Sarpanch and details of ward members under suspension/disqualified and details of Court cases pertaining to suspension/disqualification for taking further action in the matter. In turn Mandal Parishad Development Officer, Mogullapally vide reference No. MPO/49, dated 01.05.2022 has furnished a report stating that no such members are under suspension/disqualified and signatures of ward members are tallied with Gram Panchayat records. Therefore, a notice has been issued

vide office ref No.C/593/2022, dated 30.04.2022 in Form-IV while enclosing Form 1 and no confidence motion under Section 30 Sub-section 1 and 2 of the Telangana Panchayat Raj Act, 2018 fixing for meeting of No Confidence Motion on 25.05.2022 i.e. (19) days excluding the date of notice and date of the proposed meeting at 11.00 clock at the office of Gram Panchayat, Chinthalapalli and the Mandal Parishad Development Officer, Mogullapally Mandal has been requested to serve the notices to all members of Grampanchayat Chinthalapalli Village and the served notices are received from MPDO, Mogullapally on 10.05.2022.

6. Learned Assistant Government Pleader further contends that there are no valid grounds and that the issue needs no consideration,, in view of the fact that all the pre-requisites are completed in issuing the impugned notice and therefore, the same warrants no interference by this Court, and the same is liable to be dismissed.

7. The relevant provision of law reads as under:

“Section 30 of T.S. Panchayat Raj Act, 2018

Motion of no confidence in Upa-Sarpanch:

(1) A motion expressing want of confidence in the Upa-Sarpanch, may be made by giving a written notice of intention to move the motion in such form and to such authority as may be prescribed, signed by not less than one half of the total number of members of the Gram Panchayat, and further action on such notice shall be taken in accordance with the procedure prescribed:

Provided that no confidence of motion under this section shall be made within two years of the date of assumption of office by the Upa-Sarpanch:

Provided further that no such notice shall be made against the same Upa-Sarpanch more than twice during his term of office and the second no-confidence motion shall not be initiated before the expiry of two years from the date of first No Confidence Motion.

8. Rules 2 and 3 relating to motion of no confidence in the upa-sarpanch of grampanchayat vice-president/president of mandal parishad or vice-chairman/chairman of Zilla Praja parishad of G.O.Ms.No.200, Panchayat Raj and Rural Development (Mandal I), dated 28th April, 1998 reads as under:

Rule 2: *A notice of the intention to make the motion shall be made in Form-I, in Form II and in Form-III Annexed to these rules either in English or in Telugu or in Urdu language, signed by not less than one-half of the total number of members of the Gram Panchayat, ⁴[Mandal Parishad] or Zilla Praja Parishad as the case may be, with a copy of the proposed motion, and shall be delivered in person by any two of the members who signed such notice, to the Revenue Divisional Officer, Sub-collector or Assistant Collector, as the case may be, having jurisdiction in the case of Upa-Sarpanch of a Gram Panchayat; or President and Vice-President of a ²[Mandal Praja Parishad]; or to the District Collector in the case of Chairman and Vice-Chairman of ³[Zilla Praja Parishad] as the case may be;*

Provided that no notice of motion under this rule shall be made within two years of the date of assumption of office by the person against whom the motion is sought to be moved;

Provided further that no such notice shall be made against the same person more than once during his term of office.

Explanation: - For the purpose of this rule, it is hereby clarified that:

- (i) In the determination of one-half of the total number of members under any fraction below 0.5 shall be ignored and any fraction of 0.5 or above 0.5 be taken as one.*
- (ii) the expression "total number of members" means all the members who are entitled to vote in the election to the office concerned inclusive of the Sarpanch, President or Chairman, as the case may be, but irrespective of any vacancy existing in the office of such members at the time of meeting:*

Provided that a suspended office bearer or member shall also be taken into consideration for computing the total number of members and he shall also be entitled to vote in a meeting held under this rule.

Rule 3. *The concerned officer specified in Rule 2 (hereinafter in this rule referred to as said officer) shall then convene and preside over a meeting for the consideration of motion at the office the of the Gram Panchayat, or at the Mandal Parishad, the Zilla Parishad as the case may be on a date appointed by him which shall not be later than thirty days from the date on which the notice under*

Rule 2 was delivered to him, he shall give to every member of Grampanchayat, Mandal Parishad or Zilla Parishad as the case may be the notice of not less than fifteen clear days excluding the date of the notice and the date of the proposed meeting of such meeting in Form-IV or in Form V or in Form-IV annexed to the rules either in English or in Telugu or Urdu language, whichever is applicable every such notice shall be delivered as specified below namely:

- a. by giving or tendering such notice to such member, or*
- b. if such member is not found, by leaving such notice at his last known place of residence or business or by giving or tendering the same to some adult member or servant of his family; or*
- c. if such member does not reside in the Gram Panchayat area or ¹[Mandal Praja Parishad area, or within the District and if his address is known to the District Panchayat Officer/ Chief Executive Officer/ Collector or the Sarpanch of the Gram Panchayat to be elsewhere, by sending the same to him through registered post with Acknowledgement due; or*
- d. if none of the means aforesaid is available or if the persons referred to in clauses (a) and (b) refuse to receive the notice, by affixing the same at some conspicuous part of his place of residence or business.*

Provided that where the holding of such meeting is stayed by an order of a Court, it shall be adjourned, and the said officer shall hold the adjourned meeting on a date not later than thirty days from the date on which he received the intimation about the vacation of stay and after

giving to the members, a notice of not less than fifteen clear days excluding the date of the notice and the date of the proposed meeting of such adjourned meeting.

9. As per Section 30 of the Telangana Panchayat Raj Act, 2018 Motion of no confidence in Upa-Sarpanch, President or Chairperson, shall be moved by not less than one-half of the total number of members of the Gram Panchayat. In the case on hand, admittedly, as borne on record, 1st Ward member K.Srikanth and 5 Ward members of Grampanchayat Chinthalapalli Village of Mogullapally Mandal have submitted a letter of no confidence against the petitioner on 30.04.2022 and they have given representation in Form-I, by duly signing the same before the Revenue Divisional Officer, Bhupalpalli on 30.04.2022. Admittedly, there is no dispute with regard to the quorum.

10. The Revenue Divisional Officer, (RDO) Bhupalpally Division issued notice in Form-4A on

06.05.2022 vide NOC/593/2022 to the petitioner herein duly informing the petitioner that a notice has been issued to him seeking to move no confidence motion against the Upa-Sarpanch of Chintalapally Village, Mogulapally Mandal i.e. the petitioner herein and to consider the said no confidence motion there will be a meeting on 25.05.2022 at 11.00 AM in the Chintalapalli Grampanchayat Office. The said notice dated 06.05.2022 also indicates that a copy of Form I and notice for no confidence motion are also duly enclosed.

11. A bare perusal of all the relevant material on record and the relevant provisions of law i.e. Section 30 (1) and (2) of the Telangana Panchayat Raj Act, 2018 and Rules 2 and 3 of the G.O.Ms.No.200, dated 20.04.1998, it is very clear that the impugned notice is in strict compliance of Section 30(1) and (2) of the Telangana Panchayat Raj Act, 2018 and also Rules 2 and 3 of G.O.Ms.No.200, dated 20.04.1998. The 3rd respondent

herein after examining the proposal of no confidence motion against the petitioner submitted by the 1st Ward member Sri K.Srikanth and 5 ward members of Chinthalapalli Grampanchayat, Mogullapally Mandal on 30.04.2022 and the 3rd respondent after having been satisfied that the said notice was in accordance with the procedure contemplated under the law and also as per the relevant provision of law i.e. Section 30(1) and (2) of the Telangana Panchayat Raj Act, 2018 and the Rules 2 and 3 issued in G.O.Ms.No.200, dated 20.04.1998, issued the impugned notice to the petitioner in Form IV on 06.05.2022 and in view of the fact that the same is in strict compliance with the relevant rules and the procedure contemplated there under, the same warrants no interference by this Court.

12. In the ratio laid down in **Vipulbhai M. Chaudhary v. Gujarat Co-operative Milk Marketing Federation Limited**¹, the Apex Court held as under:

*“18. [In Pratap Chandra Mehta v. State Bar Council of Madhya Pradesh](#) and others (2011)9 SCC 573 and in *Usha Bharti v. State of Uttar Pradesh and others* (2014) 7 SCC 663, the concept of democratic principles governing the democratic institutions have been discussed. In a democratic institution, confidence is the foundation on which the superstructure of democracy is built. The bedrock of democratic accountability rests on the confidence of the electorate. If the representative body does not have confidence in the office bearer whom they have selected, democracy demands such officer to be removed in a democratic manner.*

19. A cooperative society is registered on cooperative principles of democracy, equity, equality and solidarity. Democratic accountability, mutual trust, fairness, impartiality, unity or agreement of feeling among the delegates, cooperativeness, etc., are some of the cardinal dimensions of the cooperative principles. A body built on such principles cannot be led by a captain in whom the co-sailors have no confidence.

*20. In *Bhanumati v State of U.P.* (2010) 12 SCC 1 at paragraph-67, this Court elaborated on this principle:*

¹(2015) 8 SCC 1

"67. Any head of a democratic institution must be prepared to face the test of confidence. Neither the democratically elected Prime Minister of the country nor the Chief Minister of a State is immune from such a test of confidence under the Rules of Procedure framed under Articles 118 and 208 of the Constitution. Both the Prime Minister of India and Chief Ministers of several States heading the Council of Ministers at the Centre and in several States respectively have to adhere to the principles of collective responsibilities to their respective houses in accordance with Articles 75(3) and 164(2) of the Constitution."

13. In view of the law laid down by the Apex Court, the petitioner, who is up-sarpanch, and is presently discharging the Sarpanch duties as per Section 38(2) of the Telangana Panchayat Raj Act, 2018 should be prepared to face the No Confidence Motion moved against the petitioner and the petitioner cannot avoid the same, in view of the fact that the notice in Form-4 vide No.C/593/2022, dated 06.05.2022 issued to the petitioner herein by the 3rd respondent is in total conformity with Section 30(1) and (2) of the Telangana Panchayat Raj Act, 2018 and also the relevant rules i.e.

Rules 2 and 3 of G.O.Ms.No.200, Panchayat Raj and Rural Development (Mandal-I), dated 28th April, 1998, the writ petition is accordingly, dismissed since the same is devoid of merits. There shall be no order as to costs.

14. Pending miscellaneous applications, if any, shall stand dismissed.

SUREPALLI NANDA, J

Date: 24.05.2022

Note L.R copy to be marked

b/o

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THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.NO.23981 OF 2022

DATED: 24.05.2022

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