

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13<sup>TH</sup> DAY OF JUNE, 2024

PRESENT

THE HON'BLE MR. N.V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO.1508 OF 2023 (LB-RES)



BETWEEN:

P.REETHI MUNE GOWDA  
W/O J. MUNE GOWDA  
AGED 40 YEARS  
R/A NO. 10, BAGALUR VILLAGE  
BAGALUR POST  
JALA HOBLI, YELAHANKA TALUK  
BENGALURU - 562 149.

... APPELLANT

(BY SRI K.N.PHANINDRA, SENIOR ADVOCATE AW  
SRI B. RAMESH, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA  
DEPARTMENT OF RURAL DEVELOPMENT  
AND PANCHAYAT RAJ  
M.S. BUILDING  
DR. AMBEDKAR VEEDHI  
BENGALURU - 560 001  
REP. BY PRINCIPAL SECRETARY
- 2 . THE ASSISTANT COMMISSIONER  
BENGALURU NORTH SUB-DIVISION  
KANDHA BHAVAN  
K.G. ROAD  
BENGALURU - 560 009.
- 3 . BAGALURU GRAMA PANCHAYAT  
BAGALURU VILLAGE,  
JALA HOBLI,

YELAHANKA TALUK  
BENGALURU - 502 149  
REP. BY ITS PANCHAYATH  
DEVELOPMENT OFFICER

- 4 . A. KEMPEGOWDA  
S/O LATE S. ANJANAPPA,  
AGED 42 YEARS,  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 5 . PRAVEEN TAJ  
W/O BABA JHAN,  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 6 . B.N. NAGAVENI  
W/O B.S. PILLEGOWDA  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 7 . B.S. PRABHUSWAMY  
S/O B.S. SIDESHAPPA  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 8 . DHANANJAY B  
S/O BHIMANNA  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 9 . HEMALATHA  
W/O ANILKUMAR  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 10 . ANJANAMMA  
W/O SALLAPPA  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT

- 11 . RAFIA SULTHAN  
W/O DASTHAGIRI SAB  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 12 . M.D. USMAN GHANNI  
S/O LATE SULAIMAN SAB,  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 13 . B.C. NAGARAJ  
S/O LATE CHANNARAYAPPA  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 14 . PADMAVATHI  
W/O A. VENKATARAJU  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 15 . SYED SHABHIR  
S/O LATE SARDAR AHEMAD  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 16 . B.G. NATARAJ  
S/O GOPALAPPA  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 17 . HAMEEDA  
W/O FAKRUDDIN SAB  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 18 . FARZANA  
W/O MOHAMMED ALI,  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT
- 19 . KUTEJA  
W/O NURULLA  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT

- 20 . MUNI VAJARAMMA  
W/O MUNI NARAYANAPPA  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 21 . VEENA M W/O C. SHIVANNA  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 22 . LAKSHMAMMA  
W/O LATE GANGADHAR  
MAJOR IN AGE  
MEMBER OF BAGALURU  
GRAMA PANCHAYAT
- 23 . SUDHEENDRA  
S/O B.K. SAMPATH  
MAJOR IN AGE  
MEMBER OF BAGALURU GRAMA PANCHAYAT

RESPONDENTS No.3 TO 23 ARE  
C/O BAGALURU GRAMA PANCHAYATH  
BAGALUR VILLAGE, JALA HOBLI  
YELAHANAKA TALUK  
BENGALURU – 562 149.

... RESPONDENTS

(BY SMT. PRATHIMA HONNAPURA, AAG A/W  
SMT. NILOUFER AKBAR, AGA,  
SRI B.J. SOMAYAJI, ADVOCATE FOR R3,  
SRI D.R. RAVISHNAKAR, SENIOR ADVOCATE A/W  
SRI SARAVANA S., ADVOCATE FOR R4 & 6 TO 23 AND  
SRI MURALI N, ADVOCATE FOR R5)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE  
KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE  
THE ORDER DATED 17.11.2023 PASSED IN WRIT PETITION No.  
25051/2023 BY THE LEARNED SINGLE JUDGE AND ALLOW THE  
WRIT PETITION FILED BY APPELLANT AS PRAYED FOR AND  
ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED  
FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT OF  
JUDGMENT, THIS DAY, **CHIEF JUSTICE** DELIVERED THE  
FOLLOWING:

## **JUDGMENT**

A neat question of law arises for consideration about the import and applicability of the group of words 'within the first fifteen months from the date of his election' occurring in the Second Proviso to Section 49(1) of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993; whether it applies in the case of a new President elected in the middle of the term of the Panchayat replacing the originally elected president to avail the new President immunity from facing no-confidence motion for first fifteen months from the date of 'his election'.

2. Section 49 of the of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993 (hereinafter referred to as 'the Act') deals with motion of no-confidence against Adhyaksha (the President) or Upadhyaksha (the Vice President) of Grama Panchayat.

2.1 The provision is reproduced hereunder to highlight the Second Proviso to Section 49(1) of the Act which is centripetal to the controversy,

**"49. Motion of no-confidence against Adhyaksha or Upadhyaksha of Grama Panchayat.** – (1) Every Adhyaksha or Upadhyaksha of Grama Panchayat shall forthwith be deemed to have vacated his

office if a resolution expressing want of confidence in him is passed by a majority of not less than two thirds of the total number of members of the Grama Panchayat at a meeting specially convened for the purpose in accordance with the procedure as may be prescribed:

Provided that no such resolution shall be moved unless notice of the resolution is signed by not less than one-half of the total number of members and at least ten days notice has been given of the intention to move the resolution:

Provided further that no resolution expressing want of confidence against an Adhyaksha or Upadhyaksha, shall be moved within the first fifteen months from the date of his election:

Provided also that where a resolution expressing want of confidence in any Adhyaksha or Upadhyaksha has been considered and negatived by a Grama Panchayat a similar resolution in respect of the same Adhyaksha or Upadhyaksha shall not be given notice of, or moved, six months from the date of the decision of the Grama Panchayat.”

2.2 Whether the period of fifteen months is to be counted from the date of election only of the first President or could also be reckoned from the date when new President in the middle of the term assumes office, for such newly elected incumbent.

2.3 It is in this context that the challenge to the judgment and order dated 17.11.2023 passed by learned Single Judge in the writ petition is required to be addressed for its legality.

2.4 Learned Single Judge dismissed the writ petition holding that the petitioner had assumed the office from 07.03.2023 and that the prohibition of fifteen months under the Second Proviso would have to be taken into consideration from 27.12.2021 when the election results were declared, and that since fifteen months expired on 26.05.2023 counted from the date 27.12.2021 when the first President was elected, there was no prohibition for moving the no-confidence motion.

3. The prayer made in the writ petition was to set aside the notice dated 04.11.2023 issued by the Assistant Commissioner, Bengaluru North Sub-Division, Bengaluru. It was a notice in relation to the motion of no-confidence against the President of the Bagaluru Grama Panchayat, Yelahanka Taluk. This notice came to be issued by the Competent Authority pursuant to the application dated 18.10.2023 submitted by 20 members of the Grama Panchayat, who had submitted motion of no-confidence against the President. The Competent Authority required for holding of meeting on

21.11.2023 to discuss the motion of no-confidence against the President.

3.1 The petitioner was elected as member of respondent No.3-Gram Panchayat. The election to the Gram Panchayat was held and the tenure was from the year 2020 to the year 2025. The Panchayat consisted of 26 elected members. One Smt. Hameeda was elected as President of the Board of the Panchayat for a period of thirty months as per the notification issued by the Government. The said term was of the office of the President for thirty months commenced from 18.01.2022 upto the end of July 2024. However, the said President resigned from the post on account of personal grounds in February 2023 and the post of the President of the Gram Panchayat became vacant.

3.1.1 The election to elect new President took place on 07.03.2023, in which the petitioner came to be elected as President of the Gram Panchayat. Respondent Nos.4 to 23 who are the members of the Panchayat, under complaint dated 18.10.2023 moved a motion of no-confidence against the petitioner to remove her from the post of the President. The



petitioner had completed barely eight months of her tenure as President.

3.2 In the context of the above facts the question that cropped up is as to whether the moving of no-confidence motion against the newly elected President-the petitioner was permissible in view of the Second Proviso to Section 49(1) of the Act, which provides that no resolution expressing want of confidence against Adhyaksha or Upadhyaksha shall be moved 'within the first fifteen months from the date of his election'. The contention of the petitioner is that his election date was 07.03.2023 and when the complaint was moved on 18.10.2023 regarding no-confidence motion, the fifteen months' period had not elapsed.

3.3 Learned Single Judge concluded against the petitioner to hold that the period of fifteen months mentioned in the Second Proviso will start running from the date the election of the President for the first time and that since the said period was over, there was no bar in respect of moving no-confidence motion against the petitioner. Learned Single Judge construed the Second Proviso accordingly permitting no-confidence motion against the petitioner.

3.3.1 Learned Single Judge relied on the decision of Co-ordinate Bench in **Smt. C. Pushpa Vs. State of Karnataka, Panchayath Raj Department (ILR 2019 KAR 2395)**, which decision took view that the words “from the date of his election” used in Section 49 would be calculated from the date of first election for the Adhyaksha-the President.

3.4 It may be mentioned at this stage that Sections 46 and 49 of the Act came to be amended by Act No.49 of 2020. The term of office of the President was reduced from fifteen months to five years. The other part of the amendment was that the no-confidence motion could not be moved within fifteen months from the date of election, which was earlier thirty months in the unamended provision.

3.5 The decision in **Smt. C. Pushpa** (*supra*) was rendered when the provisions were not amended. Learned Single Judge rested on the reasoning of the said decision to dismiss the writ petition holding that the law laid down in **Smt. C. Pushpa** (*supra*) even would apply despite the amended provision which had not brought any change except the duration as above. It is true that the amendment in period from thirty months to fifteen

months is of no consequence in reading and interpreting the provision.

3.5.1 In **Smt. C. Pushpa** (*supra*), learned Single Judge supplied the following reasons and that on such basis held against the present the appellant-the petitioner, as observed in the paragraph 7 of the judgment,

“... Hence, it becomes clear that the Legislature in its wisdom while making the amendment to Section 46 as well as Section 49 of the Act has by a conscious legislative intent altered the period of prohibition as well as the period of office of the Adhyaksha or Upadhyaksha as noticed by amendments. To accept the contention that the period of 30 months as a prohibition to move the motion of no-confidence, would commence from the date of the Adhyaksha having been elected, though would appear at first blush to be a correct literal interpretation, adoption of such an interpretation in the present facts would lead to absurdity where the prohibition under Section 49(1) of the Act is sought to be made applicable where the Adhyaksha is elected for the second time consequent to the resignation of the Adhyaksha elected at the earlier instance...”

4. It was held that if literal interpretation is adopted, then the bar envisaged under Second Proviso to Section 49 would come into play whenever a President is elected and if every time, the proviso is to operate accordingly, then no motion of

no-confidence could be moved during the entire term. According to the decision in **Smt. C.Pushpa** (supra), such interpretation would lead to absurdity. As held in the said decision, the group of words “from the date of his election” could be reckoned from the date of first election of the President.

5. This Court is unable to endorse to the aforesaid view. It is a trite principle that the statute would attract literal interpretation when the words and language are clear. A clear expression in the legislative enactment is the manifestation of view of the law making body. The Courts are not expected to depart from the plain language of the statute unless the statute or section peddles a serious mischief in its application or and it becomes perverse in achieving its object.

5.1 In **Maulavi Hussein Haji Abraham Umarji vs. State of Gujarat and another [(2004) 6 SCC 672]**, the Court observed referring to its own decision in **Institute of Chartered Accountants of India vs. Price Waterhouse [(1997) 6 SCC 312]** that the intention of the Legislation is primarily to be gathered from the language used, which means that attention has to be paid to what has been said.

5.2 The Court cannot add to or amend the section by interpreting it in a different way than it speaks itself in clear manner. The language expressed by the legislature in enacting a section, has to be taken as a revelation of intention of the legislature and the purport of the provision has to be determined accordingly.

6. Viewing the Second Proviso to Section 49 relating to motion of no-confidence against the Adhyaksha or Upadhyaksha in the Karnataka Gram Swaraj and Panchayat Raj Act, 1993, it clearly provides that no resolution expressing want of confidence against Adhyaksha or Upadhyaksha, shall be moved within 'first fifteen months from the date of his election'.

6.1 "His Election" are the crucial words for their purport, which necessarily refers to President or Vice-President 'who is elected' and holds the office. It does not confine to the President or Vice-President elected for the first time, it is "election of the last president". The proviso provide that no-confidence motion shall not be moved within first fifteen months from the date of his election, has to be construed accordingly only.

6.2 The group of words “shall be moved within the first fifteen months from the date of election”, are situation-specific. Similarly, the words, date of ‘his election’ are person-specific, namely to apply to one who has entered the office of the President or Vice-President of the Panchayat. The Second Proviso to Section 49 of the Act accords protection to the person holding the office of President or Vice-President from the no-confidence moved against him or her for the period mentioned.

6.3 The Second Proviso cannot be construed by referring the erstwhile President or Vice-President who held the office earlier. Such an application does not stand to reason. The section when operates, cannot be applied by connecting a President or Vice-President not in office, or the past incumbent in office.

6.4 The idea of what is provided and contemplated in the Second Proviso is to extend protection to the incumbent of the office from frequent subjection to no-confidence motions. It is always desired that a democratically elected body at the grass-root level like Panchayat functions with stability. The President or Vice-President of Panchayat become prone to be subjected

to no-confidence motion by the meddling groups of opposition but for the provision like the Second Proviso.

6.5 The functioning of the Panchayat, then would not only lose its continuity, as a result, the works of public good to be discharged by the Panchayat may even derail. Therefore, statutory longevity otherwise provided for the office of Adhyaksha or Upadhyaksha should not be allowed to be tinkered with by permitting motion of no-confidence, only after certain interval and not every now-and-then. The embargo of fifteen months operates with such object to apply to the gain of every incumbent holding the office upon election, during the term of the Panchayat.

6.6 It is to curb the tendency of misuse of power of moving no-confidence motion, that the Legislature has inserted the second proviso in Section 49 providing for fifteen months, contemplating that “within the first fifteen months” from “the date of his election”, motion expressing no-confidence shall not be permitted to be moved. It may be a fortuitous circumstance, that in a given case, because of less tenure left to be consumed by the newly elected incumbent to the office of President which may be less than fifteen months, no-

confidence motion would not be permitted during such tenure. This aspect would indeed not persuade the Court to construe the Section otherwise and as sought to be interpreted by learned Single Judge of this Court in **Smt. C. Pushpa** (supra).

6.7 The purpose to be secured by providing that for the first fifteen months from the date of election of the President, no-confidence motion shall not be moved is to check the misuse. The weapon of no-confidence in a democratic body like Panchayat more often than not, becomes dangerous in the hands of power-makers and power-peddlers. The underlying object of the Second Proviso is thus to curb the tendency, more witnessed in the recent times amongst the dissatisfied groups who move no-confidence motion for flimsy reasons and miscellaneous grounds against duly elected democratic body to destabilise and to pursue often the unethical political motives. Therefore, when the provision in the said Proviso provides for a bar to institute the no-confidence motion for the first fifteen months from the date of his-President's election, it has its own object to achieve.

7. The Second Proviso to section 49 of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993, is thus a case for



literal interpretation which is blended with an object to achieve. The literal interpretation to the Second Proviso to be so accorded becomes purposeful interpretation as well. Therefore, the both legislative intent and the purposiveness in application is achieved by attaching the construction that “his election” is referable to the President who is last elected and who is in the office. It is in no way suggestive of the first elected President only. The protection of fifteen months will start from the date of assumption of office by the first President as well as subsequent Presidents who may have the decision to enter the office afresh, who may hold the office during the tenure of the Panchayat.

8. In the instant case, the petitioner assumed the office on 7<sup>th</sup> March 2023 which will be the relevant date, namely “his election” from which, the fifteen months shall be counted and within such fifteen months from the said date, the moving of no-confidence motion remain prohibited by virtue of operation of Second Proviso to Section 49 of the Karnataka Grama Swaraj and Panchayath Raj (Amendment) Act 2021.

9. For the foregoing discussion and reasons, the impugned judgment and order of learned Single Judge is liable to be set aside. The same is set aside.

10. The appeal stands allowed.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

AHB