

Raja Ram and Others

Vs

State of U. P. and Others

Civil Appeal No. 1863 (N) of 1974

(CJI A.N. Ray, K.K. Mathew, V.V. Chandrachud JJ )

22.08.1975

JUDGMENT

MATHEW, J. –

1. The appellants filed a writ petition challenging an order passed by the State Government superseding the Municipal Board, Pilibhit. The Municipal Board which was superseded by the order of Government was constituted on June 29, 1971. Previous to the constitution of that Board, the State Government had issued a notice under Section 30 of the U.P. Municipalities Act, 1916 (hereinafter called the 'Act') on February 15, 1971 to show cause why the Board, of which the superseded Board was the successor, should not be superseded. That Board sent a reply to the notice. Thereafter no further action was taken in the matter by the Government and the Board served its full term of office.

2. A notice dated September 29, 1972 under Section 30 of the Act was issued to the Board to show cause why it should not be superseded. The notice was received by the Board on October 4, 1972. The Board passed a resolution on October 16, 1972 authorising the President of the Board to submit an interim reply and to take one month's further time for submitting a final reply in answer to the charges levelled against the Board. The President sent the interim reply on October 10, 1972 denying all the charges against the Board. The President sent the final reply on November 3, 1972 admitting the charges against the Board. The final reply was not placed before the Board before it was sent to the Government. A notice of a motion expressing no confidence in the President was given to the District Magistrate on November 13, 1972 who fixed December 15, 1972 for consideration of the motion at a meeting of the Board. The order superseding the Board was passed by the Government took into account only the final reply submitted by the President of this order that was challenged in the writ petition.

3. A learned Single Judge of the High Court held that the Government took into account only the final reply submitted by the President on November 3, 1972 admitting the charges and not the interim reply of the President denying the charges and therefore the order of the Government superseding the Board was bad. The reasoning of the learned Single Judge was that it was incumbent upon the State Government to consider the explanation of the Board and since in this case there were two replies submitted by the President - one denying the allegations against the Board and the other admitting them - the Government went wrong in simply accepting the final reply admitting the charges and ignoring the interim reply denying them. The learned Judge therefore quashed the order.

4. On appeal, the Division Bench reversed the decision of the learned Single Judge. The Division

Bench was of the view that the resolution passed by the Board on October 16, 1972 authorised the President to submit an interim reply and take one month's time and then send the final reply after considering all the aspects of the matter and therefore the Government was justified in acting upon the final reply.

5. The resolution authorising the President to submit the explanation is quite clear that he had to send an interim reply to the Government, take one month's time to consider the matter fully and submit the final reply.

6. We entertain no doubt that the Division Bench was right in its view that the President was authorised to submit both the interim and the final reply without further reference to the Board and if the President found, after looking into the records and considering the matter fully, that the charges against the Board were correct, he was justified in admitting the charges and submitting the final reply on that basis. We think that Government was justified in acting upon the final reply as the facts and circumstances of the case fully warranted the admissions made therein. We agree with the finding of the High Court that the notice of motion expressing no confidence in the President did not in any way influence him in admitting the charges in his final reply to the Government as the notice was sent after the final reply.

7. We dismiss the appeal with costs.

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