



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3460]

TUESDAY ,THE TWENTY NINETH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 10811/2025

Between:

1.SAVU VENKTA MURALI KRISHNA, S/O SAVU
SURYANARAYANA (LATE) AGED ABOUT 67 YEARS,
OCC CHAIR PERSON, BOBBILI MUNICIPALITY, R/O.
D.NO. 48-1/1, GOLLAPALLI VILLAGE, BOBBILI TOWN,
VIZIANAGARAM DISTRICT.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS
PRINCIPAL SECRETARY, MUNICIPAL ADMINISTRATION
AND URBAN DEVELOPMENT DEPARTMENT,
SECRETARIAT BUILDINGS, VELAGAPUDI,
AMARAVATHI.

2.THE COLLECTOR AND DISTRICT MAGISTRATE,
VIZIANAGARAM, VIZIANAGARAM DISTRICT.

3.THE REVENUE DIVISIONAL OFFICER, BOBBILI
DIVISION, VIZIANAGARAM DISTRICT.

4.THE BOBBILI MUNICIPALITY, BOBBILI, VIZIANAGARAM
DISTRICT REP. BY ITS COMMISSIONER.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased topleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in issuing the notice dated 07.04.2025 in Form-II, moving No Confidence Motion against the petitioner in respect of 4th respondent municipality as illegal, improper, unjust, arbitrary and contrary to the procedure prescribed under Andhra Pradesh Municipalities (Motion of No Confidence in Chair Person/Vice Chair Person) Rules, 2008 and to pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to stay of all further proceedings in view of the notice dated 07.04.2025 in Form-II, moving No Confidence Motion against the petitioner in respect of 4th respondent municipality pending disposal of the writ petition and pass

Counsel for the Petitioner:

1.MAHADEVA KANTHRIGALA

Counsel for the Respondent(S):

1.GP MUNICIPAL ADMN AND URBAN DEV AP

The Court made the following:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY**W.P.No.10811 of 2025****ORDER:**

This writ petition is filed seeking a writ of Mandamus to declare the action of Respondent No.2 in issuing notice dated 07.04.2025 in Form-II for meeting of Municipal Council, Bobbili on 29.04.2025 for consideration of 'No Confidence Motion' against the Chair Person/Petitioner.

2. The Municipal Elections for Bobbili Municipality were held in the year 2021 and in the said elections, 20 councillors were elected from YSRCP, 10 councillors were elected from Telugu Desam party along with one independent councillor. Apart from the 31 elected councillors, there is one Ex-Officio member (MLA) and 3 co-option members making the total number of members of Bobbili Municipality council as 35 which is inclusive of Ex-officio and nominated persons

3. The Petitioner was elected as Councillor from Ward No.11 of Bobbili Municipality and subsequently was elected as Chairperson of Bobbili Municipality. While so, the Petitioner came to know that 20 members had given written notice in Form-I as required under Section 46 of the A.P.Municipalities Act, 1965

(for short 'the Act') to make a motion expressing want of confidence against the Petitioner. Consequent thereto, the Respondent No.2 had issued the impugned notice in Form-II dated 07.04.2025 proposing to hold meeting of the Municipal Council, Bobbili on 29.04.2025 at 11.00 a.m. for consideration of motion of no confidence against the Petitioner.

4. The reason for challenge of the said notice was that the Form-I notice issued to the Petitioner along with Form-II notice does not contain the date and place of the signatures in the motion letter by the members and as such, Form-I is not in consonance with the prescribed format and the same cannot be the basis to initiate 'No Confidence Motion' against the Petitioner.

5. Heard Sri Mahadeva Kanthrigala, learned counsel for the Petitioner and Smt. S.Pranathi, learned Special Government Pleader for the State.

6. Learned counsel for the Petitioner contended that as per Section 46 of the Act, a written notice of 'No Confidence Motion' should be in the form specified by the Government and as the Form does not contain the date and the day on which it is signed, the same is not a sufficient compliance of Rule 46 r/w Rule 3 of

the A.P.Municipalities (Motion of No Confidence in Chairperson/Vice Chairperson) Rules, 2008 (for short 'the Rules'). Learned counsel for the Petitioner further contended that the meeting of No Confidence should be conducted within a period of 30 days from the date on which the notice was delivered to the District Collector and the District Collector shall give a 15 days notice to the members having right to vote as provided under Section 46(2) of the Act. Learned counsel further contended that in the absence of the date on the Form-I, it would not be possible to specify the outer limit of 30 days prescribed in Rule 5 of the Rules and therefore, the notice is defective and cannot be the basis for No Confidence Motion.

7. Learned Special Government Pleader Smt. S.Pranathi appearing for the Respondent submitted that the notice in Form-I was issued to the District Collector on 02.04.2025 and a copy of the same along with the stamp of the Office of the District Collector was passed on to the Court.

8. Learned Special Government Pleader would submit that the impugned Form-I notice is within the timeframe of 30 days specified in Rule 5 and therefore, the impugned notice cannot be said to be defective. It was further contended that the purpose of

No Confidence Motion in Form-I is primarily to cross-check the genuineness of the signatures of the members seeking for No Confidence and therefore, the non-mention of the date thereon may not be of any consequence.

9. Learned counsel for the Petitioner relied upon a Division Bench judgment of the Hon'ble Supreme Court in ***Union of India and others v. Mahendra Singh***¹ to sustain his contention that where the matter prescribes to be done in a particular manner, it shall be done in the same manner. The judgment of the erstwhile High Court of A.P. in ***Smt.Ramaram Sujatha v. The State of Telangana., rep., by its Principal Secretary (W.P.No.28384 of 2018 dated 26.12.2018)*** was also referred to substantiate his contention that if the Form-I is not in consonance with the prescribed format, the same is liable to be rejected. Learned counsel also relied on the Division Bench judgment of the High Court of Allahabad in ***Vikash Kumar v. State of U.P.***².

10. Learned Special Government Pleader relied upon a Division Bench judgment of erstwhile High Court of A.P. in

¹ 2022 SCC Online SC 909

² LAWS(ALL)-2025-1-6

***Dr. Nallamothu Ruthrani v. State Government of A.P., rep., by its Principal Secretary*³.**

11. Having heard the respective counsel, this Court reasons as follows: At the outset, the “No-Confidence Motion” is a proposal for removal resulting from loss of confidence of the members of the council and a majoritarian exercise. The Form-I is the prescribed format as per the Rules to give intimation to the District Collector expressing want of confidence in the Chairperson.

12. The District Collector shall then verify the signatures of the signatories with reference to the signatures available in municipal records and after satisfying himself regarding the genuineness of the signatures, shall issue a notice in Form-II to convene a meeting within 15 days as per Rules 4 and 5 of the Rules. The time limit to convene a meeting within thirty (30) days from the date of receipt of Form-I and clear fifteen (15) days notice prescribed in Rule 5 which reads as under;

“5 (1) After proper verification of the signatures of the members in Form-I, the District Collector shall convene a meeting for the consideration of the

³ 2009 SCC Online AP 530 = (2009) 6 ALD 92 (DB)

motion at the office of the municipal council on a date appointed by him which shall not be later than thirty days from the date on which notice was delivered to him. He shall give to the members who are having right to vote, notice of not less than fifteen clear days as provided in sub-section (2) of section 46 of the Act in Form-II."

13. On a closer scrutiny of the purport of time limit mentioned in the above Rules, this Court is of the opinion that Rule 5 provides for rights for enforcement of 'No Confidence Motion' on the signatories and casts an obligation on the District Collector to conduct the meeting within the time specified. The Rule 5 does not provide for any right to the Petitioner and it would be odd to say that Petitioner has a right of getting the 'No Confidence Motion' enforced within 30 days. In the absence of any right, the Petitioner cannot be said to be prejudiced by mere non-mention of date on Form-I.

14. The time limit is to ensure that the District Collector does not procrastinate the statutory obligation to convene the meeting of 'No Confidence Motion' and defeat the democratic right of the majority to express no confidence in the Chairperson/Vice Chairperson as the case may be. The time

limit in Rule 5 is a sense of assurance to the signatories to the Form-I.

15. Coming to the argument of the counsel for the Petitioner that no mention of the date on Form-I makes the same defective cannot be sustained, since the members who signed on the Form-I are not disputing their signatures on the Form-I nor are they objecting that they had signed on the Form-I, 30 days prior to the proposed meeting on 29.04.2025. In the absence of any objection from the signatories to the Form-I to the proposed meeting, it would not be open to the Petitioner piggy back on objections available to the members.

16. In ***Dr. Nallamothu Ruthrani's*** case (3 supra), while considering the objection that Form-II notice without enclosing Form-I notice held that the same would not make the notice defective. The scope of Section 46 of the Act was also considered. The relevant paragraphs 11,12 and 13 read as under;

"11. Section 46 of the Act while requiring written notice of an intention to move the motion expressing 'want of confidence' addressed to the

District Collector posits enclosure to such notice a copy of the proposed motion but provides no sanctions for the transgression of this requirement (of enclosing a copy of the proposed motion to the notice). There is no provision which enjoins expressly or by any compelling implication the requirement to furnish a copy of the notice addressed to the District Collector and or a copy of the proposed motion for expressing 'no confidence', to the person against whom the motion is proposed. The scheme of Section 46 of the Act does not postulate either textually or by implication a requirement of recording any reasons for moving the motion of no confidence nor is there enjoined a requirement of establishing misconduct or misdemeanor of an office holder as a condition precedent to moving the motion for expressing 'want of confidence'. A motion of 'no confidence' is not treated akin to a process of impeachment from office. It is a simple majoritarian exercise. In the circumstances there appears no public interest component or a social prejudice occasioned by the failure to enclose a copy of the proposed motion as enjoined by Section 46(1) of the Act, to the written notice of an intention to move the motion expressing 'want of confidence' addressed to the Collector.

12. As pointed out in the judgment of the Supreme Court in Rajendra Singh v. State of M.P. and others, AIR 1996 SC 2736 = 1996 (4) ALD (SCSN) 76, in

considering cases alleging violation of statutory rules and conditions, the violation of each and every provision does not furnish a legitimate ground for judicial interference. Statutory provisions may be directory or mandatory. In the case of directory provisions substantial compliance is adequate unless it is established that violation of a directory provision results in loss or prejudice to a party. Even in case of mandatory provisions interference does not follow as a matter of course. A Mandatory provision conceived in the interest of a party, may be waived by that party, while a mandatory provision conceived in the public interest cannot be waived by a party. The Apex Court pointed out that wherever a complaint of violation of a mandatory provision is made, the Court should enquire in whose interest is the provision conceived. If it is not conceived in the interest of public, question of waiver and/or acquiescence may arise subject of course to the pleadings of the parties.

13. In the case on hand from the text and context of Section 46(1) of the Act there appears no pejorative impact either to the interests of petitioner nor the public arising out of the failure to enclose a copy of the motion expressing 'want of confidence'; to the written notice of the intention to move such a motion, addressed to the District Collector.

17. The judgments cited by the counsel for the Petitioner though arising from 'No Confidence Motion' under the Panchayat Act, are in a factually different scenario and not applicable to this case.

18. For the aforementioned reasons, this Court is of the opinion that the impugned notice dated 07.04.2025 is not defective and the Writ Petition is dismissed. No order as to costs. As a sequel, the miscellaneous petitions if any shall stand dismissed.

NYAPATHY VIJAY, J

Date: 29.04.2025

KLP