



- 1 -

NC: 2023:KHC-K:7783-DB
WA No. 200105 of 2023
C/W WA No. 200106 of 2023

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 29TH DAY OF SEPTEMBER, 2023

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT APPEAL NO. 200105 OF 2023 (LB-ELE)

C/W

WRIT APPEAL NO. 200106 OF 2023 (LB-ELE)

IN W.A.NO.200105/2023

BETWEEN:

1. AMBIKA W/O GOVIND HULMANI,
AGED ABOUT 48 YEARS,
OCC: MEMBER SUNTANOOR GRAM PANCHAYAT,
R/O: NEAR PANCHAYATI SUNTANOOR VILLAGE,
TQ: ALAND, DIST: KALABURAGI-585311.
2. ASHADEVI W/O ARJUN WAGGAN,
AGED ABOUT 30 YEARS,
OCC: MEMBER SUNTANOOR GRAM PANCHAYAT,
R/O: BHEEM NAGAR, SUNTANOOR VILLAGE,
TQ: ALAND, DIST: KALABURAGI-585311.



...APPELLANTS

(BY SRI. RAVI B. PATIL, ADVOCATE)



AND:

1. THE STATE OF KARNATAKA
DEPT. OF PANCHAYAT RAJ
VIDHANA SOUDHA,
BENGALURU-560 001.
BY ITS SECRETARY
2. THE STATE ELECTION COMMISSIONER,
CUNNINGHAM ROAD,
BENGALURU-560001.
3. THE DEPUTY COMMISSSIONER,
KALABURAGI DISTRICT,
KALABURAGI-585401.
4. THE GRAM PANCHAYAT,
SUNTANOOR, TQ: ALAND,
DIST: KALABURAGI-585401.
REPRESENTED BY PDO.
5. THE DESIGNATED OFFICER,
GRAM PANCHAYAT SUNTANOOR,
BLOCK EDUCATION OFFICER,
ALAND, DIST: KALABURAGI-585 401.
6. SMT. NAGAMMA W/O BHEEMSHA DANNUR,
AGED ABOAUT 54 YEARS,
OCC: MEMBER OF GRAM PANCHAYAT,
SUNTANOOR,
R/O: SUNTANOOR VILLAGE,
DIST: KALABURAGI-585401.
7. SMT. REKHA W/O RAVINRA,
AGED ABOAUT 35 YEARS,
OCC: MEMBER OF GRM PANCHAYAT,
SUNTANOOR,
R/O: SUNANOOR VILLAGE,
DIST: KALABURAGI-585401.

...RESPONDENTS

(BY SRI. VEERANAGOUDA MALIPATIL, HCGP FOR R1, R3 & R5
SRI. P.S. MALIPATIL, ADV. FOR R2;
SRI. VENKATESH C. MALLABADI, ADV. FOR R4;
SMT. RATNA N. SHIVAYOGIMATH AND
SRI. SANTOSH H. PATIL, ADV'S FOR R6 & R7)



THIS APPEAL IS FILED U/S 4 OF KARNATAKA HIGH COURT ACT, PRAYING TO CALL FOR THE RECORDS IN WRIT PETITION NO. 202285/2023 ON THE FILE OF LEARNED SINGLE JUDGE OF THIS HON'BLE COURT. TO SET ASIDE THE ORDER IMPUGNED DATED 08.08.2023, PASSED IN WRIT PETITION NO. 202285/2023 AND CONSEQUENTIALLY TO DISMISS THE WRIT PETITION IN ENTIRETY, IN THE INTEREST OF JUSTICE. ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT NO.5 TO DECLARE THE APPELLANTS AS DULY ELECTED IN VIEW OF ONLY NOMINATION RECEIVED WITHIN SPECIFIED TIME ON 02.08.2023 AS PER THE CALENDAR OF EVENTS WITHOUT INSISTING FOR THE QUORUM IN THE MEETING.

IN W.A.NO.200106/2023

BETWEEN:

1. SMT. MANGALABAI
W/O TUKARAM KELINKERI,
AGE: 40 YEARS,
OCC: GRAM PANCHAYAT MEMBER BODHAN,
R/O: BODHAN VILLAGE,
TQ: ALAND, DIST: KALABURAGI.
2. NAGAMMA W/O SHIVAPUTRAPPA,
AGE: 40 YEARS,
OCC: GRAM PANCHAYAT MEMBER BODHAN,
R/O: BODHAN VILLAGE,
TQ: ALAND, DIST: KALABURAGI.

...APPELLANTS

(BY SRI. AMEETH KUMAR DESHPANDE ADV. FOR
SRI. MAHADEV S. PATIL , ADVOCATES)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF PANCHAYAT RAJ
VIDHANA SOUDHA, BANGALURU-560 052,
REPT. BY SECRETARY
2. THE STATE ELECTION COMMISSIONER,
CUNNINGHAM ROAD,
BANGALORE-01.



3. THE DEPUTY COMMISSSIONER,
KALABURAGI, DIST: KALABURAGI-585101.
4. THE GRAM PANCHAYAT,
BODHAN, TQ: ALAND,
DIST: KALABURAGI-585401.
REPRESENTED BY PDO.
5. THE DESIGNATED OFFICER,
GRAM PANCHAYAT BODHAN,
CHILD DEVELOPMENT PROJECT OFFICER,
ALAND, DIST: KALABURAGI.
6. SMT. CHANDRAKALA
W/O SANTOSHA KAMBHALE,
AGE: 39 YEARS,
OCC: MEMBER OF GRAM PANCHAYAT BODHAN,
TQ: ALAND, DIST: KALABURAGI-585401.
7. PRAKASH S/O CHANDRASHA NARONI,
AGE: 47 YEARS,
OCC: MEMBER OF GRAM PANCHAYAT BODHAN,
TQ: ALAND, DIST: KALABURAGI-585401.

...RESPONDENTS

(BY SRI. VEERANAGOUDA MALIPATIL, HCGP FOR R1, R3 & R5
SRI. P. S. MALIPATIL, ADV. FOR R2;
SRI. VENKATESH C. MALLABADI, ADV. FOR R4;
SMT. HEMA L. K., ADV FOR R6 & R7)

THIS APPEAL IS FILED U/S 4 OF KARNATAKA HIGH COURT ACT, PRAYING TO ALLOW THIS WRIT APPEAL BE SET-ASIDE THE IMPUGNED ORDER PASSED IN WP. NO. 202284/2023(LB-ELE) DATED 08.08.2023 IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS COMING ON FOR ADMISSION AND HAVING BEEN HEARD AND RESERVED ON 03.08.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, **RAJESH RAI K. J.**, DELIVERED THE FOLLOWING:



JUDGMENT

The grievance of the appellants in these two appeals is in respect of common issue pertaining to election of Adhyaksha and Upadhyaksha of two village panchayats, challenged under different writ petitions and both writ petitions allowed by the learned Single Judge vide order dated 08.08.2023, against the said orders, these two writ appeals are filed. Hence, both these appeals are taken up for disposal in this common order.

2. The factual matrix of the case in W.A.No.200105/2023 are that the appellants are elected members of Gram Panchayat Suntanoor village. In the said Gram Panchayat, the post of Adhyaksha and Upadhyaksha became vacant due to completion of first tenure, therefore the calendar of event for holding election of Adhyaksha and Upadhyaksha was issued on 02.08.2023 by scheduling the meeting for election on 02.08.2023 at 1.10 p.m. It is clarified that the nominations to the post of Adhyaksha and Upadhyaksha were to be filed before



11.00 A.M. on 02.08.2023. The appellants being aspirants, filed their nominations within specified time on 02.08.2023, which were duly accepted after due scrutiny at 1.00 p.m. However, out of 13 Gram Panchayat Members, only 06 members were present in the meeting and there were no other nominations received by the 5th respondent. Hence, the 5th respondent adjourned the meeting to 09.08.2023 for lack of quorum.

3. The respondent Nos.6 and 7 being aware of the proceedings dated 02.08.2023, having failed to file any nomination, have approached the learned Single Judge in W.P.No.202285/2023 with a specific pleading that they being the aspirants to contest for the post of Adhyaksha and Upadhyaksha, had approached the office of Panchayat with their respective nominations, however the 5th respondent has not permitted them to file nomination, therefore, they returned without filing their nominations. The learned Single Judge after considering the facts and circumstances of the case, allowed the writ petition and



directed the 5th respondent to issue fresh calendar of events permitting the 6th and 7th respondents to file nomination. The said order of the learned Single Judge is challenged in the above appeal.

4. In W.A.No.200106/2023, the facts are that, the appellants are elected members of Gram Panchayat Bodhan village, Tq: Aland. In the said Gram Panchayat, the post of Adhyaksha and Upadhyaksha became vacant due to completion of first tenure, therefore the calendar of event for holding election of Adhyaksha and Upadhyaksha was issued on 02.08.2023 by scheduling the meeting for election on 02.08.2023 at 1.10 p.m. It is clarified that the nominations to the post of Adhyaksha and Upadhyaksha were to be filed before 12.00 noon on 02.08.2023. The appellants being the aspirants, filed their nomination within specified time on 02.08.2023, which were duly accepted after due scrutiny at 2.10 p.m. However, election was not conducted on account of short of quorum and accordingly, adjourned to 09.08.2023.



5. The respondent No.6 and 7 being aware of the proceedings dated 02.08.2023, having failed to file any nomination, have approached the learned Single Judge in W.P.No.202284/2023 with a specific pleading that they being the aspirants to contest for the post of Adhyaksha and Upadhyaksha, had approached the office of Panchayat with their respective nominations, however the 5th respondent has not permitted them to file nomination on the ground that there is no quorum, therefore the meeting will be adjourned to 09.08.2023, therefore, they returned without filing their nominations. The learned Single Judge after considering the facts and circumstances of the case, allowed the writ petition and directed the 5th respondent to issue fresh calendar of events permitting the 5th and 6th respondents to file nomination. The said order of the learned Single Judge is challenged in the above appeal.

6. We have heard the learned Senior counsel Sri. Ameet Kumar Deshpande for Ravi.B.Patil. advocate in W.A.No.200105/2023 and Sri. Mahadev S.Patil, learned



counsel for the appellants in W.A.No.200106/2023 and Smt. Hema L.Kulkarni, learned counsel for respondent Nos.6 and 7 in W.A.No.200106/2023, Smt. Ratna N.Shivayogimath and Sri.Santosh H.Patil, advocates for respondent Nos.6 and 7 in W.A.No.200105/2023 so also learned High Court Government Pleader for respondent Nos.1, 3 and 5 in both the appeals.

7. It is vehemently contended by the learned Senior counsel for the appellants that the impugned order passed by the learned Single Judge is contrary to the provisions of Section 44 and 45 of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993 since the respondents have failed to file any nomination within the prescribed time as per the calendar of events i.e. before 11.00 A.M. on 02.08.2023 in W.A.No.200105/2023 and before 12.00 noon in W.A.No.200106/2023. The appellants were the only candidates who have filed their nominations within the prescribed time, therefore there was no necessity of quorum for declaring the results of the meeting by the 5th



respondent. The 5th respondent wrongly adjourned the meeting for want of quorum to 09.08.2023 for the purpose of declaring the results of elections and the respondents have wrongly projected the same by creating a story that they were present in the meeting with the nomination papers and the 5th respondent refused to accept the same due to adjournment of the scheduled meeting to 09.08.2023. According to the learned Senior counsel, this aspect was not properly appreciated by the learned Single Judge which caused great miscarriage of justice to the appellants. The learned Senior counsel would further contend that the 5th respondent ought to have declared the results of election on 02.08.2023 itself and he wrongly adjourned the meeting for want of quorum. As per Section 53 of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993, which defines the quorum and procedure that, if there is no quorum at the time of meeting, the presiding authority has to wait for 30 minutes, and if out of such period, there is no quorum, the presiding authority shall adjourn the meeting to such time on the following



day or such future day as he may fix. However in the proviso, it is made clear that:

"Provided that in any meeting called for the purpose of election of Adhyaksha or Upadhyaksha, if there is no quorum at the time appointed for the meeting, the presiding authority shall wait for thirty minutes and if within such time there is no quorum, he/she shall adjourn the meeting to such time on the following working day which is not a public holiday and if there is no quorum even on the second adjourned day, election shall be conducted for which no quorum is necessary."

8. Hence, according to the learned Senior counsel, once the nominations are filed and finalized, then there is no question of accepting the nomination from other candidates. Hence, the 5th respondent rightly rejected the nominations of the respondents Nos.6 and 7. He would further contend that the sub clause 5 of Rule 8 of Karnataka Panchayat Raj (Village Panchayat President and Vice President Election) Rules 1995, after lapse of the time for withdrawal of the candidature, the concerned authority has to declare the candidature of those candidates whose nomination papers were received after



due scrutiny. In the case on hand, the appellants were the only candidates who have filed nominations within prescribed time as per the resolution proceedings recorded by the 5th respondent. Therefore, the quorum was not required for declaring the results of the meeting by the 5th respondent. He would also contend that, as per the settled position of law by the Hon'ble Apex Court, the Panchayat Elections Act is a complete code in regard to the conduct of the poll and for the resolution of disputes concerning the validity of the election and under Article 243-O of The Constitution, the same shall be called in question by an election petition, presenting the same before such authority and in such manner as provided for by or under any law made by the Legislature of State. Hence, according to the Senior counsel, the writ petition filed by the petitioner was not maintainable and the learned Single Judge failed to consider the said aspect and passed the impugned order. On behalf of his argument, he relied on the judgment of the Hon'ble Apex Court in the case of ***West Bengal State Election Commission and***



Ors. V/s Communist Party of India (Marxist) and Ors, reported in **2019 (4) SCJ 646** and also the order passed by the Coordinate Bench of this Court in W.A.No.946/2023 (LB-ELE) dated 14.08.2023.

9. The learned counsel for the appellant in W.A.No.200106/2023 has adopted the arguments made by the learned Senior counsel in W.A.No.200105/2023.

10. Refuting the submissions made by the learned Senior counsel for the appellants, the counsel for the respondent in W.A.No.200105/2023, Smt. Hema L.Kulkarni, vehemently contended that, the filing of nomination by the appellants on 02.08.2023 in the meeting, cannot be termed as legal meeting since there was no quorum. As such the officer adjourned the meeting to 09.08.2023 for conducting the election. The receiving of nominations of the appellants by the Presiding Officer was against the spirit of Section 45 of Karnataka Gram Swaraj and Panchayat Act, which clearly defines the procedure for election for the post of Adhyaksha and



Upadhyaksha on the establishment of Grama Panchayat. According to the learned counsel, on careful reading of Section 45 of the Act, the election process for both the post must be conducted "in such meeting". Hence, there must be quorum for a meeting of the Grama Panchayat which shall be one-half of the total number of members as contemplated under Section 53 of the said Act. If there is no quorum at the time appointed for the meeting, the meeting shall be adjourned to following working day. Hence, the meeting held on 02.08.2023 cannot be termed as legal meeting since the same was held without proper quorum. She would further contend that in view of the language used in Section 45(1) as well as Section 45(2) of the Act, the election of Adhyaksha and Upadhyaksha shall be done in the meeting and entire action begin from filing nomination till the declaration of result, as ordinarily to be taken in the meeting, receiving the nomination prior to the time and date prescribed by the authority has been inconsistent with the letter and spirit of Section 45(1) of the Act. Filing of nomination of receipt of the motion by



the prescribed authority prior to holding the meeting and the date of meeting could in the eye of law be deemed to be the commencing of the process of election. Hence, the meeting includes filing of nominations also. When there is no required quorum in the meeting, it cannot be said that the process of election started in the eye of law, therefore Article 243-O did not come in the way to question the illegality committed in such meeting by filing writ petitions. She would further contend that the meeting held on 02.08.2023 was a non quorum meeting, at such meeting no transaction could go through. Therefore, the prescribed officer rightly adjourned the meeting to 09.08.2023. Hence, the learned Single Judge rightly directed the Returning Officer to receive the nomination of the prospective candidates to participate in the election. Accordingly, she prays to dismiss the appeal.

11. The learned counsel relied on the judgment passed by Coordinate Bench of this Court in the case of ***Smt. Shoba P and another V/s Smt. Mohini and***



NC: 2023:KHC-K:7783-DB
WA No. 200105 of 2023
C/W WA No. 200106 of 2023

others, reported in 2015 (5) KCCR 1113 (DB), ILR 1994 KAR 1985 in the case of **Shekar Bandu Prabhath V/s Prescribed Officer** and **K.Putaswamy V/s State of Karnataka, reported in ILR 1994 KAR 3065.**

12. The learned counsel Smt. Ratna N.Shivayogimath appearing for the respondent in W.A.No.200106/2023 vehemently contended that, as per Section 53 of the Gram Panchayat Act, if any meeting is called for the purpose of Adyaksha and Upadyaksha, if there is no quorum at the time appointed for the meeting, the presiding authority shall wait for thirty minutes and if within such time there is no quorum, he/she shall adjourn the meeting to such time on the following working day which is not a public holiday and if there be no quorum even on the second adjourned day, election shall be conducted for which no quorum is necessary. According to her, in the case on hand, the initial meeting was held on 02.08.2023 at 1.00 p.m. and thereafter, election was not conducted on account of short of quorum and the same



was adjourned to 09.08.2023 in stead of adjourning the same on the following working day which is not a public holiday. Hence, irregularities committed by the Returning Officer and the same calendar of events cannot be followed for the subsequent date of election i.e. on 09.08.2023. According to the learned counsel, it cannot be said that the meeting dated 02.08.2023 is continued as per Section 53 of the Act since the meeting got adjourned to 09.08.2023. Hence, the learned Single Judge rightly directed the Returning Officer to issue fresh notices to the members to elect Adhyaksha and Upadhyaksha by enabling the process of candidates to participate in the election including the respondents. Hence, she prays to dismiss the appeal.

13. Having heard the learned counsel for the respective parties and having perused the available documents on record, the only point that would arise for our consideration is.



Whether the orders passed by the learned Single Judge in W.P.No.202284/2023 and W.P.No.202285/2023 dated 08.08.2023 are justifiable?

14. On a cursory glance of Section 53 of Karnataka Gram Swaraj and Panchayat Raj Act, 1993 which reads as under:

53. Quorum and procedure.- (1) *The quorum for a meeting of the Grama Panchayat shall be [one-half] of the total number of members. If at the time appointed for the meeting a quorum is not present, the presiding authority shall wait for thirty minutes, and if within such period there is no quorum, the presiding authority shall adjourn the meeting to such time on the following day or such future day as he may fix. He shall similarly after waiting for thirty minutes adjourn the meeting if at any time after it has begun attention is drawn to the want of a quorum. A notice of the meeting so fixed shall be pasted in the office of the Grama Panchayat. The business which could not be*



considered at the meeting so postponed for want of quorum, shall be brought before and disposed of at the meeting so fixed or at any subsequent adjourned meeting at which there is a quorum.

[Provided that in any meeting called for the purpose of election of Adhyaksha or Upadhyaksha, if there is no quorum at the time appointed for the meeting, the presiding authority shall wait for thirty minutes and if within such time there is no quorum, he/she shall adjourn the meeting to such time on the following working day which is not a public holiday and if there be no quorum even on the second adjourned day, election shall be conducted for which no quorum is necessary]

Prior to amendment Act 44 of 2015

[Provided that if any meeting called for the purpose of election of Adhyaksha or Upadhyaksha is adjourned to the following day or to a future day for want of quorum, it shall not be necessary to have a quorum for such adjourned meeting.]



15. In both the writ appeals, respondent No.5 has issued notices and notified the date of election of Adhyaksha and Upadhyaksha for Suntanoor Gram Panchayat and Bodhan Gram Panchayat on 02.08.2023 at 2.00 p.m. Both the appellants filed their respective nominations for the said post in time i.e. before 1.00 p.m. in respect of Suntanoor village Panchayat and 2.00 p.m. at Bodhan village Panchayat. As far as Suntanoor village Panchayat is concerned, the time for withdrawal of the nomination was fixed at 1.00 p.m. and Bodhan Gram Panchayat time was fixed for withdrawal at 2.10 p.m. However, the candidature of both the appellants were not withdrawn. Nevertheless, in both the village panchayats, no other nominations were filed by any aspirants for the post of Adhyaksha and Upadhyaksha. Hence, according to the learned Senior counsel for the appellants, the Election Officer ought to have declared the candidature of the appellants for the post of Adhyaksha and Upadhyaksha and there was no reason for him to adjourn the meeting to 09.08.2023. Even if the meeting was adjourned on



09.08.2023 then the Returning Officer shall declare the candidature of the appellants on 09.08.2023, even if there is no quorum on that day.

16. The letter and spirit of proviso provided under Section 53 is very clear that the filing of nominations does not include in the meeting process and if there was no quorum at the time appointed for meeting, the said prescribed authority shall wait for thirty minutes and if such time if there is no quorum, he shall adjourn the meeting to such time on the following working day which is not a public holiday and if there is no quorum even on the second adjourned day election shall be conducted for which no quorum is necessary. Allowing the respondents/petitioners in the writ petition to submit their nomination papers, subsequently, would adversely effect the right of the appellants as they are the only candidates whose nomination papers have been accepted and not withdrawn before the stipulated period.



17. Rule 8(5) of the Karnataka Panchayat Raj (Village Panchayat President and Vice President Election) Rules 1995 which reads as under:

"ಒಬ್ಬನೇ ಒಬ್ಬ ಅಭ್ಯರ್ಥಿಯ ನಾಮಪತ್ರವು ಕ್ರಮಬದ್ಧವಾಗಿದ್ದರೆ ಮತ್ತು ಅವನು ನಿರ್ದಿಷ್ಟಪಡಿಸಿರುವ ರೀತಿಯಲ್ಲಿ ಮತ್ತು ಕಾಲದೊಳಗಾಗಿ ತನ್ನ ಉಮೇದುವಾರಿಕೆಯನ್ನು ಹಿಂದಕ್ಕೆ ಪಡೆಯದಿದ್ದರೆ, ಗೊತ್ತುಪಡಿಸಿದ ಅಧಿಕಾರಿಯು ಕೂಡಲೇ ಅಂಥ ಅಭ್ಯರ್ಥಿಯು ಅಧ್ಯಕ್ಷ ಅಥವಾ ಸಂದರ್ಭಾನುಸಾರವಾಗಿ ಉಪಾಧ್ಯಕ್ಷನಾಗಿ ಆಯ್ಕೆಯಾಗಿದ್ದಾನೆಂಬುದಾಗಿ ಘೋಷಿಸತಕ್ಕದ್ದು."

18. Thus, sub rule 5 of Rule 8 mandates, after expiry of time prescribed for withdrawing nomination and if nomination of only one candidate which is in order and not withdrawn before the prescribed time, the designated officer shall declare such candidate as elected to the post of Adhyaksha and Upadhyaksha as the case may be. Thus, in our considered view, on perusal of the above provision, there is considerable force in the submission made by the learned Senior counsel for the appellants that adverse effect would be caused to the appellants if the



respondents No.6 and 7 are allowed to contest the election.

19. Though the learned counsel for the respondents vehemently contended that as per Section 53 of the Act, no quorum meeting shall be adjourned to the following working day which is not a public holiday, but in the case on hand, the said meeting was adjourned to 09.08.2023 i.e. after lapse of seven days. Hence, it cannot be said that the said election process was a continuing process and as such the respondents are entitled to file their nomination. But as discussed supra, the language of Section 53 is very clear that if the meeting adjourned on the prescribed date, following working day need not be the next day. In the case on hand, the election was adjourned after one week i.e. on 09.08.2023 as per the convenience of the Returning Officer. That itself will not enable the respondents to file their nominations on the next meeting. Per contra, the Returning Officer shall declare the appellants as the Adhyaksha and Upadhyaksha since there



are no other nominations filed within the stipulated time on 02.08.2023.

20. We have given our anxious consideration to the judgments relied by the learned counsel for the respondents, i.e. in the case of **Smt. Shoba P and another V/s Smt. Mohini and others** (supra) by the Coordinate Bench of this Court, wherein it was held that there must be quorum on the first day fixed for holding of meeting and the rule is silent about the requisite quorum. But Section 53(1) expressly provides for requirement of quorum and it is only after the receipt of quorum being present in the meeting, that the submission of nomination and other steps for holding the election to the post of Adhyaksha and Upadhyaksha could take place.

21. The above said case was pertaining to the election of Adhyaksha and Upadhyaksha of Gram Panchayat of the year 2015. Even in the case of **Shekar Bandu Prabhath V/s Prescribed Officer** (supra) and **K.Putaswamy V/s State of Karnataka,** (supra)



principle laid down by the Coordinate Bench of this Court in a similar manner, but the said case also pertain to the election for the post of Adhyaksha and Upadhyaksha in the year 1994. The Karnataka Gram Swaraj and Panchayat Raj Act, 1993, amended in the year 2015 i.e. with effect from 25.02.2016, wherein as per the amended proviso to Section 53 of the Act, there is no such necessity to have quorum for such adjourned meeting as contemplated prior to the amendment and in the new proviso, it is clear that if there is no quorum even on the second adjourned day, election shall be conducted for which no quorum is necessary. Hence, it is clear that, after expiry of time prescribed to withdrawal of the nomination, if the nomination of only one candidate which is in order and not withdrawn before the prescribed time, as per rule 8(5), the designated officer shall declare such candidate as elected on the same day on the date of first meeting or on the adjourned meeting, even if there is no quorum in the second meeting. Hence, the judgment relied by the learned counsel for the respondents cannot



be made applicable to case. The learned counsel also relied on the judgment in the case of ***K.Putaswamy V/s State of Karnataka***, (supra) wherein also similar observation made by the Coordinate Bench of this Court, but even the said case was also filed challenging the election held in the year 1994. As such, the amended proviso to Section 53 is not taken into consideration.

22. Per contra, the learned counsel for the appellants have relied on the judgment passed by the Coordinate bench of this Court in W.A.No.946/2023 dated 14.08.2023 in the case of Sri. C.Prem Kumar V/s Sri. Puttaswamy and others, wherein the Coordinate Bench, in similar circumstances has held that after expiry of time prescribed for withdrawing the nomination and if there is nomination of only one candidate which is in order and not withdrawn before the prescribed time, the designated officer shall declare such candidate as elected to the post of Adhyaksha and Upadhyaksha as the case may be.



23. The other judgment relied on by the learned Senior counsel, in the case of **West Bengal State Election Commission and Ors. V/s Communist Party of India (Marxist) and Ors**, Civil Appeal No.8515 of 2018 and connected cases, decided on 24.08.2018, wherein the Hon'ble Apex Court held in para 26 which reads as under:

26. The Panchayat Elections Act is a complete code in regard to the conduct of the poll and for the resolution of disputes concerning the validity of the election. Article 243K entrusts the superintendence, direction and control over the conduct of all elections to the panchayats in the State Election Commission. Clause (b) of Article 243O stipulates thus:

243-O. Notwithstanding anything in this Constitution.

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

24. In the circumstances, we are of the considered view that the appellants have made out sufficient grounds for interference. Hence, we proceed to pass the following:



NC: 2023:KHC-K:7783-DB
WA No. 200105 of 2023
C/W WA No. 200106 of 2023

ORDER

The writ appeals are allowed.

The impugned orders passed by the learned Single Judge in W.P.No.202284/2023 dated 08.08.2023 and W.P.No.202285/2023 dated 08.08.2023 are set aside.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

SMP
List No.: 1 Sl No.: 1