

Fair Price Shop in question on 11.10.2017 but without any decision on the same by means of another proposal the respondent no.5 has been recommended for allotment of Fair Price Shop and the shop has been allotted in his favour, which could not have been done without taking any decision on the proposal dated 11.10.2017. He further submits that the Gram Pradhan was present through out the meeting but in the last he left the meeting and did not sign the proposal, which does not make the proposal invalid.

4. On the other hand learned counsel for the respondents submit that the proposal dated 11.10.2017 was not signed by the Gram Pradhan, therefore it is not a valid proposal and could not have been acted upon. It has further been submitted that the Gram Pradhan himself had made a complaint in regard to the bungling in voting in the meeting for the aforesaid proposal dated 11.10.2017, therefore it could not have been acted upon and on the basis of a fresh proposal in which the respondent no.5 was recommended, he has been granted the licence of Fair Price Shop in question. There is no illegality or error in it. Relying on U.P.Panchayat Raj Rules, 1947 learned counsel for the respondents submit that without confirmation and signature of the Pradhan a proposal is not a valid proposal. Therefore it could not have been acted upon.

5. I have considered the submissions of learned counsel for the parties and perused the records.

6. This petition has been filed for a direction for allotment of Fair Price Shop in question in favour of the petitioner in pursuance of the proposal dated 11.10.2017, which has not been signed by

the Gram Pradhan. Therefore the sole issue to be considered is as to whether the proposal which has not been signed by the Gram Pradhan can be a valid proposal or void and can be acted upon or not and a direction can be issued for taking a decision in favour of the petitioner in pursuance of the said proposal or not.

7. Rule 46 of the U.P. Panchayat Raj Rules 1947 (hereinafter referred as Rules 1947) provides that the Pradhan and in his absence the Up-Pradhan shall preside at the meeting of the Gaon Sabha and Gaon Panchayat and in case of absence of both from any such meeting, the member nominated under Rule 46-A shall preside at the meeting or in case the Pradhan has not made such a nomination, the Prescribed Authority may nominate any member. Rule 47 of the Rules 1947 provides the duties of Pradhan. One of the duties of the Pradhan is to convene and preside at all the meetings of the Gaon Sabha and the Gaon Panchayat and the other to control the transaction of business at the meetings and preserve order.

8. Rule 35-A of the Rules 1947 provides the procedure of the meetings of the Gaon Sabha, which is extracted here-in-below:-

"35-A. Procedure at the meeting of Gaon Sabha.- Subject to the provision of Section 11 of the Act, the following procedure shall be followed at the meeting of a Gaon Sabha:

(a) The proceedings of the meeting shall be read and confirmed and then signed by the Pradhan.

(b) The accounts of the period elapsed since the last meeting shall be

presented for information and consideration.

(c) Other items, if any, shall then be taken up and considered."

9. In view of above, as per the procedure prescribed the meeting of the Gaon Sabha shall be convened by the Pradhan and he will also preside the meeting and control the transaction of business in the meeting. The Pradhan and in his absence the meeting shall be presided over by the Up-Pradhan and in his absence the member nominated by Pradhan or prescribed authority, as the case may be. After meeting the proceedings of the meeting shall be read and confirmed and then signed by the Pradhan. Therefore the proceedings of the meeting are not only to be presided and controlled by the Pradhan but confirmed and signed also by the Pradhan after the meeting.

10. When there is a statutory provision for proceedings of the meeting, a proposal which has not been confirmed and signed by the Pradhan, it cannot be said to be a valid proposal and the proposal made therein would be void. Admittedly the proceedings of the meeting dated 11.10.2017 have not been confirmed and signed by the Pradhan, therefore it cannot be said to be a valid proposal and is void.

11. It is also noticed that the Gram Pradhan of the Village himself had made a written complaint in this regard to the Tahsildar, Lalganj, Pratapgarh with request for permission for re-voting on 11.10.2017 itself and to the Sub-Divisional Officer, Lal Ganj. The Tehsildar had submitted a report on 18.10.2017 annexing the list of 304 persons who were of the view that election is valid and 340 persons who were of the

view that election was invalid and were in favour of secret voting.

12. In view of above, the proposal dated 11.10.2017 cannot be said to be a valid proposal, therefore it cannot be acted upon. Hence no direction can be issued for taking decision in pursuance of the said proposal. Even otherwise subsequently another proposal was made, in which the name of respondent no.5 was recommended and he has been appointed. Therefore also no direction can be issued for taking any decision on the aforesaid proposal dated 11.10.2017 which has not been confirmed and signed by the Pradhan and is not in accordance with law. The petition has been filed on misconceived and baseless grounds and it is liable to be dismissed.

13. The writ petition is, accordingly, **dismissed**. No order as to costs.

(2023) 5 ILRA 1492
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 17.04.2022

BEFORE

THE HON'BLE AJAY BHANOT, J.

Writ-C No. 34819 of 2022

Committee of Management, Maharshi Dayanand Saraswati Vaidik Siksha Samiti, Meerut & Anr. ...Petitioners

Versus

State of U.P. & Ors. ...Respondents

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