

Abdul Qadeer vs Municipal Board, Moradabad And Ors. on 7 February, 1955

Equivalent citations: AIR1955ALL414, AIR 1955 ALLAHABAD 414

JUDGMENT

Agarwala, J.

1. This is an appeal from an order refusing to grant an injunction. Sri Abdul Qadeer is at present the President of the Municipal Board, Moradabad. A motion of no-confidence is going to be moved against him apparently upon a requisition by a majority of the members of the Municipal Board and in pursuance of that motion certain proceedings as required by the Municipalities Act are being taken. The appellant filed a suit in the court of the Civil Judge, Moradabad for the issue of a permanent injunction restraining the defendant who are the Municipal Board, Moradabad, through the Vice-President, the Members of the Board, the District Magistrate of Moradabad and the Additional Sessions Judge of Moradabad from holding any meeting on 8-2-1955. On the date on which the plaint was filed an application for the issue of a temporary injunction restraining the defendants from moving a no-confidence motion against him and holding the meeting on the 8th February was made. This application has been rejected & the present appeal is against that order.

2. The only ground stated in the application for the issue of a temporary injunction was that some of the members had been coerced into signing the no-confidence motion and the resolution submitted was no resolution in the eye of law.

3. There are two essential considerations which should weigh with the Court in deciding applications like this. One is that a prima facie case should have been satisfactorily made out and the second is that the balance of convenience should be in favour of the grant of the injunction prayed for. In deciding whether a prima facie case has been made out or not, the Court must be satisfied upon the materials placed before it that what the applicant says is probably true. The Court will not be deciding the matter finally at that stage but still the granting of an injunction being a very serious matter in that it restrains the opposite parties from the exercise of their rights, the Court does not issue the injunction unless it is thoroughly satisfied that there is a prima facie case in favour of the applicant. The allegation in the present case was that the members had been coerced into signing the no-confidence motion. Beyond the affidavit of the applicant who is an interested party no other (sic)cumentary evidence was produced to show that the no-confidence motion was signed under coercion. Normally people do not sign under coercion (sic)d therefore the presumption is that it was not (sic) signed unless some writing, or affidavit or a (sic)ter from those who are alleged to have signed (sic)der coercion was forthcoming or some other (sic)of was furnished. No such things were pro-(sic)ced in this case.

4. As regards the balance of convenience, in (sic) matter of this kind, the convenience not only (sic) the parties to the suit, but also of the public (sic) large is to be considered. Where the question (sic) of an election to a public office, it is not merely the parties that are interested in it but the public is also interested in seeing that proper persons are put in office to conduct public affairs. Normally it is better in a case of this kind that the plaintiff is not allowed to continue to work, because, if the suit succeeds and the injunction (sic) not issued the only result will be that the plaintiff will be prevented from exercising his (sic)ght as President for some time. If, however, (sic)e injunction is issued and ultimately the suit (sic) ails, the result would be that, with the help of the Court, the plaintiff who ought not have been allowed to function as the President, is allowed to continue in office and to exercise the very wide powers vested in him. The latter alter-native is certainly worse than the former. An injunction should be issued in such cases only When the Court is so clearly satisfied about the merits of the plaintiff's claim that it thinks that in all probability the plaintiff will succeed.

5. We think that there is no force in this appeal and we dismiss it.