APPELLATE CIVIL

Before Harbans Singh, C.J., and B. R. Tuli, J.

RAM NARAIN SHARMA, ETC.,—*Appellants.*

versus

THE STATE OF HARYANA, ECT.,—*Respondents.*

L.P.A. No. 460 of 1972.

May 22, 1973.

Punjab Panchayat Samitis (Co-option of Members) Rules (1961)—Rule 4—Word "quorum"—Meaning of—First meeting of a Panchayat Samiti with 19 members—Presence of 14 members at the meeting—Whether constitutes quorum.

Held, that the word 'quorum' clearly indicates the minimum number of members who have to be present at a particular meeting before the members are entitled to transact any business.

Held, that in a Panchayat Samiti consisting of 19 members, the presence of 14 members at its first meeting will not be three-fourth of the total to constitute quorum within the meaning of Rule 4(1) of Punjab Panchayat Samitis (Co-option of Members) Rules, 1961, even in view of the difference in the language used in this rule and rule 4(4). In the absence of any explanation added to rule 4(1) by the legislature, ordinary meaning has to be attached to the word 'quorum', the basic idea of which is that the number prescribed is the minimum for legally transacting any business at a meeting. When such a number comes to $14\frac{1}{4}$ in a Samiti consisting of 19 members, there is no justification for holding that the intention of the Legislature was to fix the number at 14 unless that intention had been made absolutely clear. The mere fact, that an explanation has been added to sub-rule (4), may be only by way of abundant caution and would, in no way, negative the fact that the quorum at the first meeting has to be of more than 14 persons.

Letters Patent Appeal under Clause 10 of the Letters Patent against the judgment, dated 6th October, 1972, passed by Hon'ble Mr. Justice P. C. Jain, in Civil Writ No. 2551 of 1972.

Chandra Singh, Advocate, *for the petitioners.*

D. S. Lamba, Deputy Advocate-General, Haryana, *for the Respondent.*

JUDGMENT

Judgment of the Court was delivered by:—

HARBANS SINGH, C.J.—This order will dispose of two appeals (L.P.A. 460 of 1972 and L.P.A. 49 of 1973) directed against the order of the learned Single Judge, dismissing two writ petitions, one filed by Ram Narain and another and the other by Bhadur Ram and another, which raise the same question of law.

(2) The Panchayat Samitis of Salhawas and Dabwali, having 19 elected members each, were to co-opt lady members and also members from the scheduled castes. At the meetings held for this purpose of the two Samitis only 14 members were present and, considering that the quorum was proper, co-option was made. Against this, two writ petitions (C. Ws. 2551 and 2615 of 1972) were filed.

(3) Rule 4 of the Punjab Panchayat Samities (Co-option of Members) Rules, 1961 (hereinafter referred to as the Rules) provides as follows:—

"4. *Quorum.*

(1) Three-fourth members shall constitute a quorum for the co-option of persons;

(2) If at the first meeting there be no quorum present as specified in sub-rule (1), the Presiding Officer shall adjourn the meeting.

(3) When a meeting is adjourned under sub-rule (2) another meeting shall be convened by the Presiding Officer for the purpose of co-opting members by giving three days' clear notice to the Primary Members.

(4) Not less than one-half of the number of Primary Members shall constitute a quorum for the second meeting.

Explanation.—Where a Panchayat Samiti consists of nineteen Primary Members, ten members will constitute quorum for the second meeting.

(5) If at the second meeting there be no quorum present as specified in sub-rule (4), the Presiding Officer shall adjourn the meeting.

(6) When a meeting is adjourned under sub-rule (5), a third meeting shall be convened by the Presiding Officer, in the manner specified in sub-rule (3), for the purpose of co-opting Members.

(7) No quorum shall be necessary for the third meeting."

(4) The contention on behalf of the petitioners was that the respective meeting at which the co-option had taken place was the first meeting and, therefore, the presence of three-fourth members was necessary before they could be legally entitled to transact any business in respect of the co-option of the members, that the total number of the members being 19, three-fourth comes to 14/¼ and that only 14 members being present at the meeting, there was no quorum and, therefore, no properly constituted meeting.

(5) Taking into consideration sub-rule (4) of rule 4, where the words used are "Not less than one half" and the explanation added to this sub-rule that where there are 19 members, 10 members will form the quorum for the second meeting, it was held by the learned Single Judge that in the case of the first meeting, fraction of less than one-half, which in this case was only one-fourth, had to be ignored and that in a Panchayat Samiti of 19 members, 14 members would constitute the quorum. It is against this decision that these two appeals have been filed.

(6) The word 'quorum' clearly indicates the minimum number of members who have to be present at a particular meeting before the members are entitled to transact any business. It was not disputed that but for the different language used in sub-rules (1) and (4) of rule 4 of the Rules, there would have been no scope for the conclusion that if the prescribed quorum includes a fraction, then that fraction is to be ignored if it happens to be less than one-half. The learned Single Judge felt that, because in sub-rule (1) the words mentioned are "Three-fourth members shall constitute a quorum for the co-option of persons" and in sub-rule (4) it is stated "Not less than one-half of the members of Primary Members shall

constitute a quorum for the second meeting", while calculating three fourth members under sub-rule (1), a fraction of one quarter is to be ignored.

It was urged on behalf of the appellants that there was absolutely no justification for the inference drawn by the learned Single Judge. It was urged that though the words used in sub-rule (1) and sub-rule (4) are slightly different and the normal practice of drafting is that if the same idea is to be conveyed, then the same words should be used, yet, the very idea conveyed by the word 'quorum' is the "minimum number" which must be present before the members can transact any business. Therefore, when three-fourth of the total number of members is the prescribed quorum, that obviously means that three-four is the minimum number. It can be more but it cannot be less. The definition of the word 'quorum' given in Corpus Juris Secundum, Volume 74, is to the following effect:—

> "The word 'quorum', now in common use, is from the Latin and has come to signify such a number of officers or members of any body, as is competent by law or constitution to transact business; * *
> * * * * * * * *
>
> Quorum of a body is an absolute majority of it unless the authority by which the body was created fixes it at a different number. *
> * * ** * * * *."

(8) In *Shyamapada Ganguly* v. *Abani Mohan Mukherjee*, which decision has also been noticed by the learned Single Judge, it was held that two-third of 17 comes to 11-1/3 and, consequently, voting by 11 commissioners was not a sufficient compliance. In fact, even before the learned Single Judge, the counsel appearing for the State had no quarrel either with the definition of 'quorum' as given in Corpus Juris Secundum or with the observations in the decision of the Calcutta High Court, but, in view of the difference in the language used in sub-rules (1) and (4) of rule 4, it was urged that the intention of the Legislature was that in a Panchayat Samiti consisting of 19 members, 14 members would be three-fourth of the total. However, we feel that if that had been the intention, there was nothing to prevent the Legislature from adding an explanation to sub-rule (1) also that where a Panchayat

(1) A.I.R. 1951 Cal. 420.

Samiti consists of 19 members, 14 members will constitute the quorum. When there is no such explanation, ordinary meaning has to be attached to the word 'quorum', the basic idea of which is that the number prescribed is the minimum for legally transacting any business at a meeting. When such a number comes to 14¼, there is no justification for holding that the intention of the Legislature was to fix the number at 14 unless that intention had been made absolutely clear. The mere fact, that an explanation has been added to sub-rule (4), may be only by way of abundant caution and would, in no way, negative the fact that the quorum at the first meeting has to be of more than 14 persons. In fact, the provisions in rule 4 of the Rules make ample and simple provision for a case where there is no quorum on the first meeting, because, another meeting can be called by giving three days' clear notice at which the quorum is only one-half and even if the quorum is not present at the second meeting, then, at the third meeting, called by giving three days' clear notice, co-option can be done and no quorum is prescribed. Taking all the matters into consideration, particularly the very basic idea of the word 'quorum', we feel that there is no justification for the inference that at the first meeting 14 members will form the quorum. Though there is some difference in the language used in sub-rules (1) and (4), yet there is, in fact, no material difference in the words used. Sub-rule (1) says that three-fourth shall constitute a quorum, which means that the minimum number should be three-fourth and if it is less than three-fourth there would not be a quorum. The words used in sub-rule (4) are "Not less than one-half of the number of Primary Members shall constitute a quorum", which means exactly the same thing.

(9) In view of the above, therefore, we accept these two appeals, set aside the order of the learned Single Judge, and while accepting Civil Writs Nos. 2551 and 2615 of 1972 and making the rule absolute, quash the proceedings of the first meeting of either of the two Panchayat Samitis, at which only 14 members were present, because there was no proper quorum. It will now be open to these two Samitis to reconvene the meeting and co-opt the members once again in accordance with law. There would be no order as to costs throughout.

K.S.K.