

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10980 OF 2023

Smt. Kalimun Balaso Nadaf ...Petitioner
Age : 52 years, Occu : Social Work/Household
R/o- Udgaon, Tal. : Shirol, Dist. : Kolhapur

Vs.

1. **Ld. District Collector, Kolhapur** ...Respondents
2. **Ld. Tahsildar of Shirol**
3. **Hidayat Ahemad Nadaf**
Age : 53 years, Occ. : Advocate
R/o- Udgaon, Tal. : Shirol, Dist. : Kolhapur
4. **Meghraj Shrikant Varekar**
Age : 50 years, Occu. : Agriculturist
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
5. **Ramesh Kuber Magdum**
Age : 39 years, Occ. : Agriculturist
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
6. **Sourabh Rajgonda Patil**
Age : 31 years, Occ. : Agriculturist
R/o - Udgaon, Tal.: Shirol, Dist. : Kolhapur
7. **Jagannath Annappa Pujari**
Age : 45 years, Occ. : Agriculturist
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
8. **Smt. Sunita Adinath Chougule**
Age : 52 years, Occ. : Household
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
9. **Smt. Pooja Sunil Yadav**
Age : 31 years, Occ. : Household
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur

10. **Smt. Jyotsana Subhas Gadgade**
Age : 34 years, Occ. : Household
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
11. **Smt. Bharti Suresh Magdum**
Age : 32 years, Occ. : Household
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
12. **Salim Mahammad Pendhari**
Age : 32 years, Occ. : Agriculturist
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
13. **Arun Anil Koli**
Age : 29 years, Occ. : Agriculturist
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
14. **Smt. Savitri Rajkumar Magdum**
Age : 52 years, Occ. : Household
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
15. **Smt. Suvarna Shrikant Sutar**
Age : 40 years, Occ. : Household
R/o - Udgaon, Tal. : Shirol, Dist. : Kolhapur
16. **Grampanchayat Udgaon**
Through its Gramvikas Adhikari
Tal. : Shirol, Dist. : Kolhapur

Mr. M. L. Patil a/w. Mr. C. G. Patil & Mr. M . G. Bagkar, Advocate,
for the Petitioner

Mr. A. P. Vanarase, AGP, for Respondent Nos. 1 & 2 - State

Dr. Uday P. Warunjikar a/w. Mr. Jenish Jain i/b. Ms. Gargi
Warunjikar, Advocate, for Respondent Nos. 3 to 15

CORAM : MADHAV J. JAMDAR, J.

DATE : 12.10.2023

ORAL JUDGMENT :

1. Heard Mr. M. L. Patil a/w. Mr. C. G. Patil, learned
counsel appearing for the Petitioner, Mr. A. P. Vanarase, learned

AGP appearing for Respondent Nos. 1 & 2 – State and Dr. U. P. Warunjikar, learned counsel appearing for Respondent Nos. 3 to 15.

2. The challenge in the present Writ Petition filed under Article 227 of the Constitution of India is to the legality and validity of the order dated 22.08.2023 passed by the District Collector, Kolhapur in Dispute Application No. 44 of 2023. By the impugned order, the said Dispute Application No. 44 of 2023 filed by the Petitioner has been dismissed by holding that ‘Motion of No Confidence’ which has been carried against the Petitioner in the meeting dated 24.03.2023 has been carried in accordance with the requirements of Section 35 of the Maharashtra Village Panchayats Act (hereinafter referred to as “**the said Act**”)

3. Before consideration of the case of both the parties, it is necessary to set out relevant factual aspects.

- (i) Respondent Nos. 3 to 11 submitted their resignations from the post of members in the prescribed format on 26.01.2023. The said resignation letters record that they are tendering the resignations w. e. f. 26.01.2023;
- (ii) The said resignation letters were entered in the Inward Register on 30.01.2023 meaning thereby the same were forwarded to the Secretary on 30.01.2023;

- (iii) The Secretary, *inter alia*, mentioned the subject No.9 as the agenda in the notice dated 02.02.2023 for the monthly meeting scheduled to be held on 09.02.2023 regarding placing of the resignation before the Panchayat. The said notice dated 2nd February 2023 reads as under :-

**“ग्रामपंचायत उदगाव
ता. शिरोळ जि. कोल्हापूर**

ग्रा.पं. उदगाव
मासिक सभा नोटीस जावक — १३९७
दिनांक — २/२/२३

स्थळप्रत सरपंच/उपसरपंच, ग्रामपंचायत सदस्य ग्रामपंचायत उदगाव, ता. शिरोळ यांचेकडून गुरुवार दि.०९/०२/२०२३ ठीक दुपारी ०२.०० वाजता ग्रामपंचायत उदगावची मासिक सभा खालीलप्रमाणे विषयावर चर्चा साठी आयोजित केली आहे.

- विषय नं — १) मागील सभेचे प्रोसेडिंग वाचून कायम करणे.
विषय नं — २) झालेल्या खर्चास मंजुरी बाबत.
विषय नं — ३) जन्म, मृत्यू, उपजत मृत्यू, विवाह नोंदी वाचून कायम करणे.
विषय नं — ४) आलेल्या परीपत्रकांचे वाचन करणे.
विषय नं — ५) आलेल्या अर्जांचे वाचन करणे.
विषय नं — ६) सही नमुने बदलनेबाबत चर्चा करणे.
विषय नं — ७) आमदार, खासदार यांच्या फंडातील विकास कामाचे ठराव करणेबाबत.
विषय नं — ८) विकास कामाचा ठराव करणेबाबत.
विषय नं — ९) ग्रामपंचायत सदस्यांचे राजीनाम्याचे अवलोकन करणे.
विषय नं — १०) तांडा वस्ती सुधार योजनेतून कामाची निवड करणे.

वरीलप्रमाणे विषयावर सविस्तर चर्चा होऊन अध्यक्षकांच्या परवानगीने आयत्यावेळी येणाऱ्या विषयांवर चर्चा होणार आहे. तरी वेळेत उपस्थित रहावे. हि विनंती.

दि.०२/०२/२०२३”

(Emphasis supplied)

Thus, it is clear that various subjects were to be considered in the said meeting scheduled to be held on 9th February 2023 and the concerned subject of placing the resignations before the meeting of Panchayat was placed at Sr. No.9.

- (iv) The said meeting scheduled on 09.02.2023 was

attended by the Petitioner and other two members. As Respondent Nos. 3 to 11 did not attend the said meeting the quorum was incomplete and, therefore, the said meeting was adjourned to 17.02.2023;

- (v) Thereafter, again fresh notice dated 09.02.2023 was issued calling the adjourned meeting on 17.02.2023 for considering the same subjects which were to be considered in the meeting dated 09.02.2023. Therefore, the said subject No. 9 was on the agenda of the meeting dated 17.02.2023. On 17.02.2023, 16 out of 17 members, were present and the resignation letters were placed before the meeting of the Panchayat.
- (vi) On 24.02.2023, Respondent Nos. 3 to 11 filed the Dispute Applications under Section 29 of the said Act before the District Collector challenging the genuineness of the said resignation letters.
- (vii) On 22.08.2023, the District Collector dismissed separate Dispute Applications filed by Respondent Nos. 3 to 11 respectively holding that the resignation letters were placed before the Grampanchayat in the meeting on 17.02.2023;
- (viii) In the meanwhile, *inter alia*, Respondent Nos. 3 to 11 served notice of 'Motion of No Confidence' against the Petitioner on the Tahsildar, Shirol, District - Kolhapur on 17.03.2023;
- (ix) The Tahsildar, Shirol, District - Kolhapur issued notice dated 17.03.2023 of meeting to be held on 24.03.2023 for consideration of 'Motion of No Confidence';
- (x) The said 'Motion of No Confidence' was moved in the meeting dated 24.03.2023. Out of 17 members of the said Grampanchayat, 16 members were present in the said meeting and 14 members voted in favour of the 'Motion of No Confidence' and 2 members voted against the motion;
- (xi) The Petitioner filed Dispute Application No. 44 of 2023 before the District Collector, Kolhapur under

Section 35(3-B) of the said Act on 29.03.2023 and the Dispute Application has been dismissed on 22.08.2023 by the impugned order.

4. It is the main contention of learned counsel appearing for the Petitioner that as Respondent Nos. 3 to 11 have submitted resignation letters on 26.01.2023, they are ineligible to move a 'Motion of No Confidence' and ineligible to vote in the meeting held for consideration of the said 'Motion of No Confidence'. It is their submission that the resignation letters come into effect on the date on which the same were placed before the meeting of the Grampanchayat. According to the Petitioner, resignation letters were given by Respondent Nos. 3 to 11 on 26.01.2023 and were forwarded to the Secretary on 30.01.2023 and by notice dated 02.02.2023, a meeting was called on 09.02.2023, when specifically said subject No. 9 was scheduled to be placed before the said meeting regarding perusal of the resignation letters. The said meeting was adjourned to 17.02.2023. According to learned counsel appearing for the Petitioner, it is to be held that the resignation letters were placed before the meeting of the Grampanchayat by the Secretary on 17.02.2023. Therefore, the said resignation letters come into effect after a period of seven days from 09.02.2023. According to learned counsel appearing for the Petitioner, the Dispute Applications filed on 24.02.2023

are clearly barred by limitation, as the Dispute Applications have to be filed within a period of seven days from the date on which resignation letters were placed before the meeting of the Grampanchayat and the said date is 09.02.2023. It is further submitted that, in terms of Sub-Section (6)(a) of Section 29 of the said Act, the resignation letters have come into effect after seven days from 09.02.2023. Therefore, as the resignation letters have come into effect on or before 16.02.2023, Respondent Nos. 3 to 11 cannot vote in the meeting dated 24.03.2023 in which 'Motion of No Confidence' has been carried. Learned counsel appearing for the Petitioner strongly relied upon a Division Bench decision of this Court in the case of *Shrikant Mallappa Ulegadi V. Gram Panchayat at Mouje Kadgaon & Ors.*, reported in *1985 SCC OnLine Bom 235* and the decision of the Supreme Court in the case of *Union of India & Ors. V. Gopal Chandra Misra & Ors.*, reported in *(1978) 2 SCC 301*.

5. On the other hand, it is the contention of Dr. Warunjikar, learned counsel appearing for Respondent Nos. 3 to 11 that as the meeting dated 09.02.2023 was adjourned to 17.02.2023 and on 17.02.2023, resignation letters were placed before the meeting of the Grampanchayat, the Dispute

Applications filed by the Respondent Nos.3 to 11 respectively under Section 29 of the said Act on 24.02.2023 before the District Collector are well within the prescribed limitation of seven days. He submitted that the said Dispute Applications were decided on 22.08.2023 and the said decision of the District Collector is challenged before the Commissioner by filing Appeals, as provided under Section 29(4) of the said Act. It is his submission that Sub Section (6)(a) of Section 29 of the said Act clearly provides that resignation shall take effect only after the decision of the Commissioner and as the Appeal filed before the Commissioner is pending, resignations have not come into effect even till date and in any case, when 'Motion of No Confidence' was considered and carried in the meeting dated 24.03.2023, the resignations had not come into effect. Therefore, it is his contention that no interference is warranted in the impugned order.

6. Before considering the rival contentions, it is necessary to set out Section 29 of the said Act which reads as under :-

“29. Registration of member and disputes regarding resignation.”-(1) Any member who is elected may resign his office by writing under his hand addressed to the *Sarpanch* and the *Sarpanch* may resign his office of

member by writing under his hand addressed to the Chairman of the *Panchayat* Samiti. The resignation shall be delivered in the manner prescribed.

(2) On receipt of the resignation under sub-section (1), the *Sarpanch* or, as the case may be, the Chairman of the *Panchayat* Samiti shall forward it within seven days to the Secretary who shall place it before the meeting of the *Panchayat* next following.

(3) If any member or the *Sarpanch* whose resignation is placed before the meeting of the *Panchayat* wants to dispute genuineness of the resignation, he shall refer such dispute to the Collector within seven days from the date on which his resignation is placed before the meeting of the *Panchayat*. On the receipt of dispute, the Collector shall decide it, as far as possible, within fifteen days from the date of its receipt.

(4) The member or *Sarpanch* aggrieved by the decision of the Collector may, within seven days from the date of receipt of the Collector's decision, appeal to the Commissioner who shall decide it, as far as possible, within fifteen days from the date of receipt of the appeal.

(5) The decision of the Collector, subject to the decision of the Commissioner in appeal, shall be final.

(6) The resignation shall take effect,—

- (a) where there is no dispute regarding the genuineness, after the expiry of seven days from the date on which it is placed before the meeting of the *Panchayat*;
- (b) where the dispute is referred to the Collector and no appeal is made to the Commissioner after the expiry of seven days from the date of rejection of the dispute by the Collector;
- (c) where an appeal is made to the Commissioner, immediately after the appeal is rejected by the Commissioner.”

In the present case, the dispute is concerning resignation by member of the Village Panchayat. A bare perusal of Section 29 of the said Act shows that the following is the scheme of Section 29 regarding resignation by member :-

- (i) An elected Member may resign his or her office by writing under his or her hand addressed to the *Sarpanch*. The resignation shall be delivered in the manner prescribed.
- (ii) On receipt of the resignation, the *Sarpanch* shall forward it to the Secretary within seven days who shall place it before the next meeting of the *Panchayat*.
- (iii) If any Member wants to dispute genuineness of the resignation, he or she shall refer such dispute to the Collector within seven days from the date on which his or her resignation is placed before the meeting of the *Panchayat*.
- (iv) On the receipt of such dispute application, the Collector shall decide it, as far as possible, within fifteen days from the date of its receipt.
- (v) The member aggrieved by the decision of the Collector may, within seven days from the date of receipt of the Collector's decision, appeal to the Commissioner who shall decide it, as far as possible, within fifteen days from the date of receipt of the appeal.
- (vi) The decision of the Collector, subject to the decision of the Commissioner in appeal, shall be final.

- (vii) The resignation shall take effect after the expiry of seven days from the date on which it is placed before the meeting of the *Panchayat*, and where the dispute is referred to the Collector, after the expiry of seven days from the date of rejection of the dispute by the Collector, where an appeal is made to the Commissioner, immediately after the appeal is rejected by the Commissioner.

7. The Scheme of Section 29 of the said Act clearly provides that the resignation of member will not come into effect immediately after the same is tendered. The resignation is required to be placed before the meeting of the Panchayat. If any member wants to dispute the genuineness of the resignation he or she has right to refer such dispute to the Collector within 7 days from the date on which his or her resignation is placed before the meeting of the Panchayat. If the decision of the Collector is against the member, he has right to challenge the same before the Commissioner and the same will come into effect immediately after the appeal is rejected by the Commissioner. Sub-Section 6 of Section 29 specifies different stages for the resignation of member to come into effect in accordance with different contingencies. If the member who has tendered resignation does not dispute the genuineness of the same then the same will come into effect after the expiry of seven days from the date on which it is placed before the meeting of the *Panchayat*. If the dispute is referred to the Collector after the expiry of seven days from the date of rejection of the Dispute Application by

the Collector. If the order of the Collector is challenged before the Commissioner within seven days from the date of receipt of the Collector's decision then the same will come into effect immediately after the appeal is rejected by the Commissioner.

8. In the present case, most significant aspect is the seven days period from the date on which it is placed before the meeting of the Panchayat. The important issue is whether the placing of the resignation letter before the meeting of the Panchayat is a mere formality. The scheme of Section 29 of the said Act clearly shows that the resignation is required to be placed before the meeting of the Panchayat and, therefore, the same will have to be actually placed before the meeting of the Panchayat. In the present case, undisputed facts show that the resignation letters were submitted by the Respondent Nos.3 to 11 on 26.01.2023, the same were forwarded to the Secretary on 30.01.2023, the Dispute Applications were filed by all these members i. e. Respondent Nos. 3 to 11 before the Collector on 24.02.2023 and the same were decided on 22.08.2023. The only dispute is whether the resignations were placed before the meeting of the Panchayat on 9.2.2023 or 17.2.2023.

9. It is the contention of learned counsel appearing for the Petitioner that the meeting was called as per the requirements of Sub Section 2 of Section 29 of the said Act on

09.02.2023. Although the said meeting was adjourned, it is to be held that the resignation letters were placed before the meeting on 09.02.2023, as the same was on agenda before the said meeting. It is the submission of learned counsel appearing for the Petitioner that it is not important whether the said meeting was held or it was adjourned. According to learned counsel appearing for the Petitioner, as the said subject was on the agenda and the meeting was held but adjourned for want of quorum, it is sufficient compliance, as contemplated under Sub-Section 2 of Section 29 of the said Act. Therefore, it has to be held that the resignations were placed before the meeting of the Panchayat on 09.02.2023 and, thus, prescribed limitation of seven days for preferring Dispute Application to the District Collector starts on 09.02.2023. Therefore, the resignation letters have immediately taken effect after seven days from 09.02.2023, i. e., on 16.02.2023. If the said contention of the Petitioner is accepted then it is obvious that the Respondent Nos.3 to 11 are not eligible to submit 'Motion of No Confidence' on 17.03.2023 and also to vote in the meeting dated 24.03.2023.

10. In view of above contentions, it is necessary to set out the Minutes of the Meeting dated 09.02.2023 which read as

under :-

“सर्वसाधारण मासिक सभा

दिनांक — ९/२/२०२३
वेळ — दु. २:०० वा.
ठिकाण—ग्रा.पं. कार्यालय उदगाव

मा. सरपंच सो,

ग्रामपंचायत उदगाव, ता. शिरोळ यांचेकडील माहे. फेब्रुवारी २०२३ ची सर्वसाधारण मासिक सभा दि. ०९/०२/२०२३ रोजी दुपारी ठिक २ वाजता ग्रा.पं. कार्यालयात आयोजित करणेत आली. सभेस खालीलप्रमाणे ग्रा.पं. सदस्य हजर झाले.

- १) श्रीमती कलिमुन बाळासो नदाफ
- २) श्री. दिलीप मधुकर कांबळे
- ३) सौ. दीपिका बंडेश कोळी

वरीलप्रमाणे सदस्य जमले नंतर नियमाप्रमाणे १/२ (अर्धा तास) वाट पाहिली असता कोणीही अन्य ग्रा.पं. सदस्य आले नाहीत. तरी सदरची सभा कोरम अभावी तहकूब करणेत आली. सदरची सभा नोटीसमध्ये नमूद विषयावर दि. १७/०२/२०२३ वार शुक्रवार रोजी दुपारी २.०० वाजता घेणेचे मा. सरपंच यांनी जाहिर केले.

दिनांक — ०९/०२/२०२३
वेळ — २:४० वा.

तहकूब सभेची नोटीस ग्रा.पं. नोटीस बोर्डावर प्रसिध्द करावी.
सर्व ग्रा.पं. सदस्यांना नोटीस लागू करणेकामी मा. सरपंच यांनी सुचित केले.”

(Emphasis added)

Thus, a bare perusal of the Minutes of the Meeting dated 09.02.2023 clearly show that as the quorum was not complete, the meeting was adjourned to 17.02.2023 for consideration of the subjects mentioned in the notice. Therefore, by no stretch of imagination, it can be said that the said resignations were placed

before the meeting of the Panchayat in compliance with Section 29(2) of the said Act.

11. In this behalf, it is necessary to also consider relevant rules of the Bombay Village Panchayats (Meetings) Rules, 1959. Rules 9 and 10 of the said Rules are relevant and are set out herein below for ready reference.

“9 (1) The quorum necessary for the transaction of business at a meeting of the panchayat shall be one-half of the total number of members of the panchayat, including the Sarpanch and the Upa-Sarpanch.

Explanation.- If the number of members of the panchayat is odd, in calculating half the number for the purposes of quorum, fraction of a member shall be counted as one e. g. if the number of members is seven, the quorum shall be four, if the number is nine, the quorum shall be five and so on.

*(2) If at any time during a meeting, it shall be brought to the notice of the person presiding that **the number of members present inclusive of the person presiding falls short of the required quorum, the person presiding, after waiting for a period of not less than fifteen minutes and not more than half an hour, shall adjourn the meeting to some other day, fixing such time and place as he shall think convenient and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting or at any subsequent***

adjournment thereof, whether there be a quorum present or not.

10. If within thirty minutes from the time appointed for a meeting, there be no quorum, the meeting if called upon the requisition of members, shall be dissolved in any other case, the person presiding shall adjourn the meeting to such hour on the following or some other day as he may reasonably fix and a notice of such adjournment shall be placed on the notice-board at the office of the panchayat and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not."

(Emphasis added)

A bare perusal of the said Rules clearly shows that the quorum necessary for the transaction of business at a meeting of the Panchayat shall be one-half of the total number of members of the Panchayat, including the Sarpanch and the Upa-Sarpanch and if the quorum is not complete then, the person presiding shall adjourn the meeting to such hour on the following or some other day as he or she may reasonably fix and a notice of such adjournment shall be placed on the notice-board at the office of the Panchayat and the business which would have been brought before the original meeting, had there been a quorum thereat,

shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not. Thus, the Rules clearly show that if quorum is not complete then the meeting has to be adjourned and accordingly, on 09.02.2023, the meeting was adjourned to 17.02.2023. It is also significant to note that Rules contemplates that if such meeting is adjourned, the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not. Thus, it is clear that if there is no quorum then the meeting has to be adjourned and for the adjourned meeting, quorum is not required for completion of the business. Thus, it is very clear that in absence of quorum at the first instance no business can be transacted and the meeting has to be adjourned and said business which would have been brought before the original meeting shall be brought before the adjourned meeting. Thus, in the present case, it has to be held that no business was transacted on 09.02.2023 including the business of placing the resignations of Respondent Nos. 3 to 11 before the meeting of the Panchayat.

12. It is the contention of learned counsel appearing for the Petitioner that the requirement of Section 29(2) of the said Act is only placing the resignation letters before the meeting of the Panchayat. According to learned counsel appearing for the Petitioner, the meeting was scheduled on 09.02.2023 *inter alia* to specifically place resignation letters of the said members, i.e., Respondent Nos.3 to 11 before the meeting of the Panchayat and therefore, whether the meeting was adjourned is totally irrelevant. However, perusal of the Minutes of the meeting dated 09.02.2023 clearly shows that same was merely adjourned, as there was no quorum and no business was transacted. By no stretch of imagination, it can be said that resignation letters of Respondent Nos. 3 to 11 were placed before the said meeting held on 09.02.2023. In fact, it is significant to note that the present Petitioner was present in the meeting dated 09.02.2023 and she has not raised any such contention in said meeting.

13. Dr. Warunjikar, learned counsel appearing for Respondent Nos. 3 to 15 has relied upon the decision of a learned Single Judge of this Court in the case of ***Manjulabai Govind Dhumal V. Collector, Osmanabad & Ors.***, reported in ***2015(3)***

Mh.L.J. 565 and more particularly on paragraphs 19, 20 and 21

which read as under :-

“19. The intent and object of the legislature is quite clear. In order to rule out any mischief or force, duress or coercion in relation to the resignation of a member or a Sarpanch, the said resignation is place before the Panchayat where the author of the resignation has the liberty to dispute the resignation. It cannot be ruled out that such a member who has tendered his resignation, could withdraw the same before its acceptance by the Panchayat. If he raises a dispute as regards it genuineness, the same is then to be decided by the Collector.

*20. In the light of the above, I have no hesitation in concluding that **a resignation tendered by a member of the Grampanchayat or Sarpanch/Up-Sarpanch, shall not stand automatically accepted upon it being tendered.** The said resignation will have to be placed before the Village Panchayat in a meeting and there cannot be a presumption of its acceptance. As such, the contention of the petitioner in this case that the resignations of respondent Nos. 3 to 5 would preclude them from participating in the special meeting convened for considering ‘no confidence’ motion, merely on the ground that the resignations have been tendered and therefore automatically accepted, is grossly misconceived.*

21. The petitioner sat over the resignations submitted by respondent Nos. 3 to 7 and never placed them before the Panchayat. Consequentially, the said resignations were kept in dormant state. Had they been placed before the Panchayat, the consequences as regards their acceptance or any dispute raised by either of the member, would have

followed. In view of the ratio laid down by this Court in the case of Pushpa w/o Pundlik Salame (supra) and Ravindra s/o Bhaskar Lumpataki (supra) and Shrikant Mallappa Ulegadi (supra), the resignations of respondent Nos. 3 to 7 were never accepted by the Grampanchayat and as such, their membership did not cease automatically.”

(Emphasis added)

The above observation and particularly, paragraph 20 of the said decision is squarely applicable to the present case.

14. It is further significant to note Minutes of the adjourned meeting dated 17.02.2023. The relevant portions of the said Minutes of the meeting are set out herein below for ready reference:-

“तहकूब मासिक सभा

दि.१७/२/२०२३

आज दि. १७/२/२०२३ वार शुक्रवार दुपारी २.०० वाजता ग्रा.पं. उदगाव कडील दि.९/२/२०२३ रोजीचे तहकूब सभा बोलविणेत आली होती. त्यावेळी तहकूब सभेला खालीलप्रमाणे ग्रा.पं. सदस्य हजर होते.

- १) श्रीमती कलिमुन बाळासो नदाफ
- २) श्री. सौरभ राजगोंडा पाटील
- ३) श्री. मेघराज श्रीकांत वरेकर
- ४) श्री. जगन्नाथ आण्णाप्पा पुजारी
- ५) सौ. जोत्सना सुभाष गदगडे
- ६) सौ. पुजा सुनिल जाधव
- ७) सौ. भारती सुरेश मगदूम
- ८) सौ. सुनिता अदिनाथ चौगुले
- ९) श्री. अरूण अनिल कोळी
- १०) श्री. दिलीप मधुकर कांबळे
- ११) श्री. सलीम महमद पेंढारी
- १२) श्री. रमेश कुबेर मगदूम

- १३) सौ. सुवर्णा श्रीकांत सुतार
 १४) सौ. सावित्री राजकुमार मगदुम
 १५) सौ. दीपिका बंडेश कोळी
 १६) श्री. हिदायतुल्ला अहमद नदाफ

वरिलप्रमाणे १ ते १६ ग्रा. पं. सदस्य हजर झाले. नंतर नियमाप्रमाणे सभेचे कोरम पुर्ण होत असलेले मा. सरपंच श्रीमती कलिमुन बाळासो नदाफ यांनी या सभेचे अध्यक्षस्थान स्वीकारले नंतर सभेच्या कामकाजास सुरुवात झाली.”

“विषय नं. ९ : ग्रामपंचायत सदस्यांचे राजीनाम्याचे अवलोकन करणे.

ठराव क्र ११०:— मौजे उदगांव या ग्रामपंचायत कडील तहकूब मासिक सभा दि १७/०२/२०२३ च्या सभेमध्ये सभेचे कामकाज चालू असतांना विषय नं. ९ हा ग्रामपंचायत सदस्यांचे राजीनाम्याचे अवलोकन करणे या विषयाचे वाचन केले असता सभेला उपस्थित असलेले ९ ग्रा.पं. सदस्य हे सभेमधून उठून गेले १) श्री. सौरभ राजगोंडा पाटील २) श्री. जगन्नाथ आण्णाप्पा पुजारी ३) सौ. भारती सुरेश मगदुम ४) सौ. पुजा सुनिल जाधव ५) सौ. सुनिता आदिनाथ चौगुले ६) सौ. जोत्सना सुभाष गदगडे ७) श्री. मेघराज श्रीकांत वरेकर ८) श्री. रमेश कुबेर मगदुम ९) श्री. हिदायतुल्ला अहमद नदाफ असे एकूण ९ ग्रा.पं. सदस्य यांनी सभात्याग केला. सदरचे ग्रा. पं. सदस्य हे सभेमधून सायंकाळी ४.३० वा निघून गेले. नंतर बाकी उर्वरित ग्रा. पं. सदस्य ५ हे १) श्री सलीम महमद पेंढारी २) सौ. सुवर्णा श्रीकांत सुतार ३) सौ. सावित्री राजकुमार मगदुम ४) श्री. अरूण अनिल कोळी ५) श्री. दिलीप मधुकर कांबळे यांनी सभेतून ५.१० वा. सभेतून निघून गेले. सभा चालू असतांना त्यांनी तोंडी मत मांडले की, सदरचे राजी नाम्याचे अवलोकन करणेत येऊ नये असे सांगितले आणि त्यांनी सभात्याग केला. त्यानंतर श्री. सलीम महमद पेंढारी यांनी सांगितले की मी लेखी म्हणणे देणार आहे असे सांगून सभागृहातून निघून गेले. त्यानंतर सभागृहामध्ये उपस्थितीत असणारे मा. अध्यक्ष/सरपंच व सदस्य सौ. दीपिका बंडेश कोळी हे उपस्थित होते. त्यावेळी अध्यक्षांनी आदेश दिला की प्राप्त सर्व राजीनाम्यांचे अवलोकन करण्यात यावे. तदनंतर अध्यक्षांच्या आदेशानुसार ग्रा.पं. कडे प्राप्त झालेल्या उपसरपंच व सदस्यांचे राजीनामे खालील नावानुसार अवलोकन करण्यात आले ते पुढीलप्रमाणे :

अ.क्र.	नांव	पद
१	श्री सौरभ राजगोंडा पाटील	उपसरपंच
२	श्री. हिदायतुल्ला अहमद नदाफ	सदस्य
३	सौ. पुजा सुनिल जाधव	सदस्य
४	श्री. मेघराज श्रीकांत वरेकर	सदस्य
५	श्री. रमेश कुबेर मगदुम	सदस्य

६	श्री. जगन्नाथ आण्णापा पुजारी	सदस्य
७	सौ. भारती सुरेश मगदुम	सदस्य
८	सौ. सुनिता आदिनाथ चौगुले	सदस्य
९	सौ. जोत्सना सुभाष गदगडे	सदस्य

वरील ९ सदस्यांचे राजीनामे साक्षीदारासह व विहित नमुन्यात खरे असल्याने ते अवलोकन करण्यात आले. नंतर श्री. सलीम महमद पेंढारी वगैरे ५ यांनी सायंकाळी ६. १५ मि. नी लेखी अर्ज सादर केला. त्यानंतर अध्यक्षांनी आदेश दिला की सदरची तहकूब सभा असल्याने सदरचा अर्ज प्रोसिडींग मध्ये घेता येत नाही.

सदर वरिलप्रमाणे ९ सदस्यांचे अवलोकन झालेले राजीनामे वरिष्ठ कार्यालयाकडे योग्य त्या कागदपत्रासह वरिष्ठ कार्यालयाकडे पुढील कार्यवाहीसाठी पाठविण्यात यावे.

सभागृहात उपस्थित असणारे अध्यक्ष सरपंच व सदस्य सौ. दीपिका बंडेश कोळी यांनी सांगितले सदर विषयासाठी सुचक म्हणून अध्यक्ष/सरपंच श्रीमती कलीमुन बाळासो नदाफ व अनुमोदक सौ. दीपिका बंडेश कोळी यांचे नाव घेण्यास सांगितले. त्याप्रमाणे ठरावास

सुचक — अध्यक्ष श्रीमती कलीमुन बाळासो नदाफ

अनुमोदक — सदस्य सौ. दीपिका बंडेश कोळी ठराव मंजूर.”

(Emphasis added)

Thus, it is clear that in fact, resignation letters were placed before the meeting of the Panchayat only on 17.02.2023. By no stretch of imagination, it can be said that the said resignation letters were placed before the meeting which was held on 09.02.2023. The Minutes of both the meetings i. e. of 09.02.2023 and of 17.02.2023 clarify the said position. It is significant to note that the Petitioner has attended both the said meetings.

15. It is undisputed that Respondent Nos. 3 to 11 filed

their respective Dispute Applications under Section 29 of the said Act before the Collector on 24.02.2023 i. e. within a period of seven days, as contemplated under Sub Section 3 of Section 29 of the said Act. It is also undisputed that the said dispute was decided by the Collector on 22.08.2023. Even the said decision is challenged before the Commissioner within the time limit prescribed and the said respective Appeals are pending before the Commissioner. Thus, it is clear that resignation letters tendered by Respondent Nos. 3 to 11 on 26.01.2023 have not come into effect on 17.02.2023 when notice was, *inter alia*, given by Respondent Nos. 3 to 11 of 'No-Confidence' and on 24.03.2023, *inter alia*, when the Respondent Nos.3 to 11 have voted in favour of the said 'Motion of No Confidence' and the same was successfully carried.

16. Reliance upon the decision of the Supreme Court in the case of ***Union of India & Ors. V. Gopal Chandra Misra & Ors.***, reported in ***(1978) 2 SCC 301*** is totally misconceived. Learned counsel appearing for the Petitioner relied on Paragraph 50 of the said decision, which reads as under :-

"It will bear repetition that the general principle is that in the absence of a legal, contractual or constitutional bar, a 'prospective' resignation can be withdrawn at any

time before it becomes effective, and it becomes effective when it operates to terminate the employment or the office-tenure of the resignor. This general rule is equally applicable to Government servants and constitutional functionaries. In the case of a Government servant/or functionary who cannot, under the conditions of his service/or office, by his own unilateral act of tendering resignation, give up his service/or office, normally, the tender of resignation becomes effective and his service/or office-tenure terminated, when it is accepted by the competent authority. In the case of a Judge of a High Court, who is a constitutional functionary and under Proviso (a) to Article 217(1) has a unilateral right or privilege to resign his office, his resignation becomes effective and tenure terminated on the date from which he, of his own volition, chooses to quit office. If in terms of the writing under his hand addressed to the President, he resigns in praesenti, the resignation terminates his office-tenure forthwith, and cannot therefore, be withdrawn or revoked thereafter. But, if he by such writing, chooses to resign from a future date, the act resigning office is not complete because it does not terminate his tenure before such date and the Judge can at any time before the arrival of that prospective date on which it was intended to be effective, withdraw it, because the Constitution does not bar such withdrawal.”

Undoubtedly, the present case is governed by Section 29 of the

said Act, which is already set out herein above. Sub-Section 6 of Section 29 of the said Act specifies when the resignation shall take effect. Therefore, the aforesaid decision of the Supreme Court will not apply to the present case.

17. Learned counsel appearing for the Petitioner has also relied upon the decision of a Division Bench of this Court in the case of ***Shrikant Mallappa Ulegadi*** (supra). In the said decision also it has been held that resignation letters come into effect only after the same are placed before the meeting of the Panchayat and after expiry of seven days from the date on which resignation letters were placed before the meeting of the Panchayat. Thus, the said decision will be of no help to the Petitioner.

18. Accordingly, no interference is warranted under Article 227 of the Constitution of India. The Writ Petition is accordingly dismissed, however, with no order as to costs.

(MADHAV J. JAMDAR, J.)