

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2386 OF 2015

KRUSHNAREDDY BHUMAREDDY YELTIWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Rakhunde Pravin B.
AGP for Respondents 1 & 2 : Shri Shelke V.G.
Advocate for Respondent 6 : Shri Bhise Bhausaheb B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 10, 2015
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PER COURT :-

1. The petitioner was the Up-Sarpanch of Village Panchayat Palashi, Taluka Kinwat, District Nanded. There are nine members elected to the village Panchayat.
2. Six members moved a requisition dated 25.8.2014, for proposing no-confidence motion against the petitioner - Up-Sarpanch. The Tahsildar received the requisition on the same day and issued a notice on the same day for convening a special meeting on 30.8.2014, which was within seven days of the requisition, as is required by law under the Maharashtra Village Panchayat Act ("the said Act").
3. In the special meeting dated 30.8.2014, the no-confidence motion was passed by 6:3 vote count.

4. The petitioner preferred Gram Panchayat Appeal No.65 before the Additional Collector, Nanded on 2.9.2014. Two grounds have been specifically put-forth for challenging the result of the special meeting. Firstly, that respondents 3 and 5 did not have a toilet and therefore, were not using the said facility. Both of them, therefore, incurred disqualification under Section 14(1)(j-5) of the said Act. Both of them could not have participated in the special meeting and hence could not have voted, either in favour or against the motion on 30.8.2014. Secondly, respondent No.6 remained continuously absent for more than six consecutive meetings and was, therefore, disqualified as he ceased to be a member under Section 14 of the said Act.

5. By the impugned judgment dated 5.1.2015, the appeal preferred by the petitioner has been rejected.

6. Grievance is that the Additional Collector, Nanded should have considered the disqualification incurred by respondent Nos.3, 5 and 6. As such, he should have come to a conclusion that the motion was not carried.

7. Learned AGP appearing on behalf of respondents 1 and 2 submits that there were no proceedings initiated either by the Gram Panchayat or by any aggrieved person for seeking disqualification of respondent Nos.3,5 and 6. In an appeal, challenging the passing of no-confidence motion, these

ancillary issues were rightly not considered by the Collector since, on the date of the special meeting, none of these three respondents had incurred any dis-qualification. As such, they had a right to vote. In the event the petitioner desires to pursue proceedings against respondents 3,5 and 6, he may avail of such remedy as may be available in law.

8. Learned Advocate appearing for respondent No.6 adopts the submissions of the learned AGP.

9. In the light of the above, as on the date of the special meeting, these three respondents were not dis-qualified by any order passed by any authority under the said Act, the Collector has rightly concluded that unless they are disqualified in any proceeding or by any order passed by the competent authority to that effect, he would be unable to conclude that they had no right to vote or participate in the meeting.

10. In the light of the above, I do not find that the impugned order could be termed as perverse or erroneous. The Writ Petition, therefore, stands dismissed.

11. Needless to state, since the Collector has not dealt with the issue of disqualification in relation to respondents 3,5 and 6, the petitioner is at liberty to resort to any remedy in this context as may be available in law. In the event he takes recourse to any such proceedings, the same shall be

decided on its merits. Contentions of the petitioner as regards his grievance against respondents 3, 5 and 6, are therefore, kept open.

(RAVINDRA V. GHUGE, J.)

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