

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**LETTERS PATENT APPEAL NO. 175 OF 2012
IN
WRIT PETITION NO. 2267 OF 2012**

Vijay Ashokrao Kadam .. Appellant

Versus

The Divisional Commissioner,
Aurangabad Division, Aurangabad
and others

.. Respondents

Shri K. J. Suryawanshi, Advocate for the Appellant.

Shri S. K. Tambe, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 20TH MARCH, 2015.

PER COURT :

. Mr. Suryawanshi, the learned counsel for the appellant states that, the motion of no confidence passed against the appellant/Sarpanch is illegal and deserves to be quashed and set aside. According to the learned counsel, as per Rule 17 of the Bombay Village Panchayat (Meeting) Rules, the proposer and seconder is must for any resolution to be passed in special meeting. There was no proposer and seconder to the said resolution. The learned counsel submits that, the respondent Nos. 7 and 8 are elected from the reserved category. However, within a period of six months, they have not submitted the validity, as such, they are disqualified as per Sec. 10(1-A) of the Bombay Village Panchayat Act.

The learned counsel also submits that, the notice convening the meeting has not been served upon the appellant. The appellant was absent in the meeting. However, the learned Single Judge has failed to consider this aspect.

2. The learned Assistant Government Pleader supports the order passed by the learned Single Judge and submits that, the provisions of law have been complied.

3. As far as Rule 17 of the Meeting Rules is concerned, the same is directory in nature and moreover said issue has been referred to the Larger Bench. As far as service of notice is concerned, the same is disputed question of law and fact. The Collector and the learned Single Judge have come to the conclusion that, the notice has been served upon the appellant. The proviso to Sec. 10(1-A) of the Bombay Village Panchayat Act is directory as is held by the Division Bench of this Court. Moreover the tenure of the appellant is almost coming to an end. The same would come to an end in the month of July 2015.

4. Considering all the aforesaid aspects of the matter, the letters patent appeal is dismissed. No costs.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]