

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

WRIT PETITION NO.8434 OF 2014

Manilal s/o Rajdhar Chaudhari,
Age 92 years, Occu.Agriculture,
R/o Fes Taluka Shahada,
District Nandurbar

.. Petitioner

Versus

1. The State of Maharashtra
through Additional Collector,
Nandurbar
2. The Returning Officer,
Gram Panchayat, Fes,
through Tahsildar, Shahada,
District Nandurbar
3. Padmabai w/o Ragdeo Bhil,
Age 52 years, Occu.Household,
4. Urmila w/o Rajendra Chaudhari,
Age 35 years, Occu.Household,
5. Sanjay s/o Shripat Chaudhari,
Age 45 years, Occu.Agriculture,
6. Ragdeo s/o Motesing Bhil,
Age 55 years, Occu.Agriculture
7. Vitthal s/o Dattu Patil,
Age 86 years, Occu.Agriculture
8. Kaysing s/o Shivan Bhil,
Age 50 years, Occu.Agriculture

All R/o Fes, Taluka Shahada,
District Nandurbar

.. Respondents

Mr Prakashsing B.Patil, Advocate for petitioner
Mr S.K.Tambe, A.G.P. for respondents No.1 and 2

CORAM : N.W. SAMBRE, J.

DATE : 9th January 2015

PER COURT

1. The petitioner suffered No Confidence Motion while working in the capacity of Sarpanch of village panchayat. The said No Confidence Motion was subject matter of appeal before the Additional Collector, Nandurbar, who by order dated 27th August 2014 dismissed the said appeal, as such the present petition.

2. Learned Counsel for the petitioner Mr Prakasing Patil strenuously urged that the petition is liable to be allowed in view of the fact that the notice of the meeting was never served on the petitioner. According to him, if the notice is not served on the petitioner - Sarpanch, he has lost opportunity of attending the meeting and address the members of the village panchayat who have proposed No Confidence Motion against him. He further urged that one of the member of the village panchayat, i.e. respondent No.8 has raised an objection that he was not permitted to participate to the proceedings of the meeting of No Confidence Motion. According to him, the denial of opportunity to the said respondent to participate in the meeting of No Confidence Motion amounts to denial of principles of natural justice and also contrary to the fundamental principles of democracy. He further urged that the proceedings are conducted contrary to the provisions of gram panchayat meeting rules and as such, submits that the order impugned is not sustainable.

3. On the other hand, learned Assistant Government Pleader submits that the issue raised in the present petition is covered by the Full Bench judgment of this Court, in the matter of **Shri Tatyasaheb**

Ramchandra Kale Vs. Navnath Tukaram Kakde & Ors., Reference in L.P.A. No.312 of 2013, answered on 9th October 2014 and the judgment of this Court in the matter of **Subhash Rambhau Doifode & Ors Vs. Additional Commissioner & Ors., reported in (2009) Supp BCR 770.** He further submits that the issue as regards non-service of notice on Sarpanch was neither raised nor contested before the Additional Commissioner. According to him, prior to above or at the time of subsequent meeting, no objection was raised before the Presiding Officer.

4. Mr Tambe, learned A.G.P. supported the order passed by the Additional Collector. According to him, once this Court, in its Full Bench judgment has decided the issue as regards the directory nature of Rule 17 of the Bombay Village Panchayat Sarpanch and Upa Sarpanch (No Confidence Motion) Rules, 1975, the issue that is canvassed by the petitioner is not sustainable. He submits that the order passed by the Additional Collector is in tune with the record and proceedings before the said authority.

5. Having considered the rival contentions of the parties, it is noticed that the non-service of notice on the petitioner as regards No Confidence Motion is for the first time raised in the petition. There was no basis for such issue either before the Presiding Officer prior to or after the meeting of No Confidence Motion nor such issue was raised before the Additional Commissioner. As such, in my opinion, the said issue is raised by way of after thought. The petition lacs merits and liable to be rejected.

6. It is not open for the petitioner to use the crutches es viz. non permitting the respondent No.8 to participate in the discussion so as to question the No Confidence Motion before this Court, more particularly, when the respondent No.8 has not in effective manner raised the said issue.

7. In the light of what has been observed herein above and having regard to the Full Bench judgment of this Court (cited supra), no case for interference is made out. Writ Petition stands rejected.

(N.W. SAMBRE, J.)

(vvr/8434.14wp)