

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9677 OF 2015

THAKUBAI UDDHAV DOLE

PETITIONER

VERSUS

THE ADDITIONAL COLLECTOR, JALNA
AND OTHERS

RESPONDENTS

Mr.G.B.Kulkarni, Advocate for the petitioner.
Mr.U.H.Bhogle, AGP for the respondent / State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/09/2015

PER COURT :

1. The petitioner is aggrieved by the motion of No Confidence, having been passed in the special meeting convened on 08/07/2015 and the impugned order dated 31/08/2015 delivered by the Additional Collector, Jalna, by which the dispute raised by the petitioner u/s 35(3)(b) of the Maharashtra Village Panchayats Act, was rejected

2. The grounds raised by the petitioner and submissions made are as under :-

(a) The petitioner was elected as a Member of a Group Gram Panchayat, Savargaon (Bhagade) in December 2012.

- (b) There are 7 members elected to the Gram Panchayat.
- (c) A common motion dated 02/07/2015 proposing No Confidence against the Sarpanch as well as the Up-Sarpanch was placed before the Tahsildar.
- (d) A common notice was issued by the Tahsildar convening a Special Meeting on 08/07/2015.
- (e) By a common resolution, No Confidence Motion against the petitioner / Sarpanch and the Up-Sarpanch was passed.
- (f) The petitioner was not given an opportunity of hearing in the matter.

3. The petitioner has relied upon the judgment of this Court in the matter of Shivkant Haribhau Bangar Vs. Gram Sevek, Mauje Ratnapur and others, 2010(6) Mh.L.J. 149 in support of his contentions.

4. I have heard the learned Advocate for the petitioner for quite some time.

5. It is apparent from the record that a common motion was moved against the petitioner / Sarpanch as well as the Up-Sarpanch by 5 members of the Gram Panchayat. It is revealed from the proceedings book that in the special meeting on 08/07/2015, the Tahsildar initially placed before the members of the Gram Panchayat

the motion of No Confidence against the petitioner / Sarpanch. The three grounds put forth by the members moving the motion were read out to all the members present. The proceedings book further indicates that there was a discussion on the said subject and after the discussion was concluded, the motion was put to vote. Same was passed by 5 against 2 votes.

6. Though the petitioner has contended that she was not permitted to address the mind of the members of the Gram Panchayat, the proceedings indicate that there was a discussion held on the issues raised in the motion and after the discussion was concluded, the motion against the petitioner was put to vote.

7. The proceedings further indicate that after the No Confidence Motion was passed against the petitioner, the Presiding Officer put forth the No Confidence Motion against the Up-Sarpanch. In a similar manner, the issues raised were put to discussion. After the discussion was concluded, the motion was subjected to voting and the same was passed by 5 : 2 majority.

8. The petitioner has been unable to point out as to whether the petitioner was prevented from speaking and whether she had

protested either in the same meeting or subsequent thereto by way of an application/complaint to indicate that she was prevented from speaking in the meeting.

9. In the absence of any evidence, the proceedings as have been written down by the Presiding Officer, will have a presumptive value.

10. The reliance placed upon the judgment of this Court in the matter of Shivkant Haribhau (supra) is of no assistance to the petitioner. In the said case, though no confidence motion was moved against the Saranch and the Up-Sarpanch, the Tahsildar had convened a special meeting only to consider the motion against the Sarpanch. In the special meeting, the Presiding Officer took up the motion against the Up-Sarpanch alongwith the motion against the Sarpanch and both these motions were discussed collectively and were passed collectively.

11. In this backdrop, this Court has concluded that there was a fundamental defect in the manner in which the special meeting was conducted and the motion against the Up-Sarpanch was surreptitiously introduced. In the instant case, the No confidence motion against the petitioner / Sarpanch and the Up-Sarpanch were

the subject of the special meeting and there was a separate discussion as against each of these 2 persons and the motion was separately passed.

12. In the light of the above, I do not find that the impugned judgment of the competent authority / respondent No.1 could be termed as perverse or erroneous.

13. The petition being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)