

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10412 OF 2015

Sou. Anita H. Barwade

.. Petitioner

vs.

The State of Maharashtra and ors.

.. Respondents

Mr. A.M. Adagule for the Petitioner.

Mr. A.R. Metkari, AGP for Respondent Nos.1 to 3.

Mr. Nilesh Patil a/w. Mr. Ravi Kadam for the Respondent Nos.5 to 17.

CORAM : M. S. SONAK, J.

DATE : 19 OCTOBER 2015.

P.C. :-

1] Not on board. Upon production, taken on board.

2] The challenge in this petition is to the order dated 6 October 2015, by which the Additional Collector, Sangli has refused to interfere with no confidence motion dated 27 August 2015, under which the Petitioner was required to vacate the position of Sarpanch, Village Panchayat of Shigaon.

3] Mr. Abhijeet, learned counsel for the Petitioner, submitted that no confidence motion was moved maliciously and as weapon to settle personal scores. He submitted that the husband of the Petitioner had filed proceedings for disqualification against two members of the Panchayat and in order to retaliate against such

filing, no confidence motion was moved. Mr. Adagule placed reliance upon the decision of the learned Single Judge of the Rajasthan High Court in case of *Laxman Meena Vs. State of Rajasthan*¹ and submitted that proceedings of no confidence, if initiated maliciously and as weapon to settle personal scores, is liable to be set aside. Mr. Adagule further submitted that the Petitioner was not present on 27 August 2015 when the motion of no confidence was taken up for consideration. However, she had instructed her Power of Attorney to address the Panchayat Members and since this opportunity was denied, there was infirmity in the passage of no confidence order.

4] Having heard the learned counsel for the parties and perused the record, in my judgment, there is no case made out to interfere with the impugned order. In this case, the Panchayat comprises of total fifteen members. In the meeting, at which no confidence motion was considered, thirteen members were present and twelve members have voted in support of voting of motion of no confidence. Considering that the post of Sarpanch was reserved for Backward Class Women, the motion has impassed with requisite majority of 3/4th. Thus, no legal infirmity insofar as compliance with mandatory procedural requirements are concerned.

1 AIR 1998 Rajasthan 306

5] The decision in case of *Laxman Meena (supra)*, upon which reliance has been placed cannot be said to be authority for the proposition that no confidence motion, which is moved maliciously or to settle personal scores, is in any manner legally infirm. In the said decision, the mandatory provisions with regard to passage of motion of no confidence were not complied with. Accordingly, such non-compliance is the main reason on account of which the motion was interfered with. No doubt, there is observation that in the facts of the said case, the motion of no confidence was moved maliciously and as weapon to settle personal scores. However, the ratio of said decision is not that a no confidence motion is rendered legally infirm, on account of any malice in moving of the same.

6] The Sarpanch can continue in office as long as he or she enjoys the support of the majority. In the present case, out of total of fifteen members, twelve members which number represents more than $3/4^{\text{th}}$ have expressed want of confidence. There is no material, which establishes that all twelve members who have voted in support of the motion for no confidence were actuated by any malice. In any case, such actuation is no ground to interfere with

passage of motion of no confidence, as long as the legal and mandatory procedures have been duly complied with.

7] Admittedly, the Petitioner was not present at the meeting when motion of no confidence was passed. There is no provision under the Bombay Village Panchayat Act, 1958 (said Act), which empowers a Power of Attorney to address the election body. In such circumstances, it cannot be said that the motion of no confidence was not validly passed. As there is no jurisdictional error in the making of the impugned order.

8] This petition is, therefore, dismissed. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

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