

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.8720 OF 2015

Sarpanch Grampanchayat Yelvi and another .. Petitioners

Versus

Deputy Collector,

Office of Collector, Rajwada, Sangli

District Sangli and others

.. Respondents

Shri. Umesh H. Pawar, for the Petitioners.

Ms. M. S. Bane, AGP for the Respondent Nos.1 & 2.

CORAM : R.M. SAVANT, J.

DATE : 31st MARCH, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 12.03.2014 passed by the Additional Collector, Sangli, by which order the Appeal filed by the Petitioners being No.35 of 2014 came to be dismissed and resultantly the “No Confidence Motion” passed against the Petitioners on 02.12.2014 came to be confirmed. The Petitioners were the Sarpanch and Upa-sarpanch of village Yelvi, Taluka- Jath, District- Sangli. The requisition was moved by 1/3 of the members of the Grampanchayat Yelvi for a “No Confidence Motion” being moved against the Petitioners on the grounds mentioned in the requisition. The said grounds inter-alia to the effect that the members of the Grampanchayat

were not taken into confidence, created obstacles in the recovery of house taxes and water taxes. In terms of the statutory provisions, the concerned Tahsildar requisitioned a meeting of the Panchayat on 02.12.2014. The Petitioners were present in the said meeting. In the said meeting, a resolution against the Petitioners was moved and was passed by majority of 7:2 i.e. the Petitioners voted against the said resolution, whereas the 7 remaining members voted in favour of the resolution. The minutes of the said meeting dated 02.12.2014 disclose that the Petitioners were given an opportunity to show-cause against the grounds on which the “No Confidence Motion” was moved against them. The names of the persons who have voted in favour of the resolution and the names of the Petitioners who voted against the resolution have been reflected in the said minutes.

2. The Petitioners aggrieved by the said resolution carried against them by a majority of 7:2, filed an Appeal before the Additional Collector under Section 35(3)(b) of the Bombay Village Panchayat Act, 1958. The Appellate Authority having regard to manner in which the resolution was passed and having satisfied itself that the statutory compliances were made rejected the Appeal.

3. The Learned Counsel appearing on behalf of the Petitioners

would contend that the proceedings of the meeting were vitiated on the ground that the Petitioners were not allowed to address the meeting, though a specific request was made and secondly, that the request of the Petitioners for a secret ballot was not acceded to. In so far as the first contention is concerned, as indicated above the factum of the Petitioners giving their explanation in respect of the charges levelled against them is recorded in the minutes. It is also an undisputed position that the Petitioners have attended the meeting. Hence, there is no merit in the contention urged on behalf of the Petitioners that they were not allowed to address the meeting. In so far as the second contention is concerned, it is not incumbent on the Presiding Officer to adopt the procedure of secret ballot as there is no mandate cast by any statutory provision that the voting should be only by secret ballot and not by show of hands. As indicated above the resolution was passed by a majority of 7:2, in my view the Petitioners have to respect the will of the house which is against them. Hence, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]