

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO.9554 OF 2015**

Manisha Hiralal Dadas

..Petitioner

Vs.

The Tahsildar & Ors.

..Respondents

Mr. Chaitanya Nikte for the Petitioner

Mr. V. S. Talkute for the Respondent Nos.3 to 7

Mr. S.D.Rayrikar AGP for the Respondent Nos.1 & 11 to 13

CORAM : R. M. SAVANT, J.

DATE : 10th APRIL, 2015

P.C.

1 The order dated 23-3-2015 passed by the Additional Collector, Satara rejecting the Dispute Application No.1 of 2015 filed by the Petitioner, is taken exception to by way of the above Petition.

2 The Petitioner was the Sarpanch of the Grampanchayat Pangari, Taluka Man, District Satara. A requisition was made by about seven members of the Grampanchayat on 30-12-2014 to the Tahsildar Man (Dahiwadi) requesting the Tahsildar to call a Special General Meeting of the Grampanchayat to pass a no confidence motion against the Petitioner for the three reasons which were mentioned in the said notice dated 30-12-2014. The said reasons were inter alia to the effect that the members of the Grampanchayat were not taken into confidence whilst carrying out welfare

works to conduct the affairs of the Grampanchayat in an arbitrary manner and not to remain present in the Village. The Tahsildar pursuant to the said requisition dated 30-12-2014 issued a notice on 31-12-2014 bearing No.1430 of 2014 to the Petitioner as well as eight other members of the Grampanchayat, Pangari. The said notice was sought to be served on the Petitioner on 3-1-2015 through the Gav Kamgar Talathi. The panchanama drawn on the said date 3-1-2015 discloses that the Petitioner was not present / refused to accept the notice and therefore was affixed on a conspicuous part of the outer wall of the Petitioner's house. The said procedure was also required to be followed in respect of one other member i.e. one Chandrakant Jagdale whose allegiance, the Petitioner claims. The special general meeting was accordingly conducted on 5-1-2015 wherein the Petitioner as also the said Chandrakant Jagdale did not remain present. The motion of no confidence was carried against the Petitioner by a majority of 7 : 0.

3 It is the case of the Petitioner that on getting knowledge of the said no confidence motion being passed against her, she filed the said Dispute Application No.1 of 2015. The resolution passed in the said meeting dated 5-1-2015, was principally questioned on the ground that the notice of the meeting dated 5-1-2015 was not served upon the Petitioner and that the Petitioner did not have the knowledge of the said meeting and in view thereof the Petitioner could not remain present in the meeting and the no confidence motion is

accordingly passed in her absence. The Additional Collector by the impugned order dated 23-3-2015 has rejected the Dispute Application by holding that the notice was served upon the Petitioner in as much as it was affixed on a conspicuous part of the outer wall of the Petitioner's house on her refusal to accept the same. The Additional Collector did not find any reason to interfere with the resolution passed against the Petitioner by a majority of 7 : 0 and accordingly rejected the Dispute Application.

4 The Learned Counsel for the Petitioner Mr. Nikte would seek to reiterate the case of the Petitioner in so far as the service of notice is concerned. The Learned Counsel would seek to place reliance on Rule 7 of the Bombay Village Panchayat Act, 1958 which prescribes the manner in which the notice is required to be served. It is also the submission of the Learned Counsel that since the Petitioner was not served with the notice, she could not remain present and therefore she could not address the meeting which has resulted in the principles of natural justice being violated.

5 Per contra, Mr. Talkute the Learned Counsel appearing for the members who had moved the requisition dated 30-12-2014, would support the impugned order. The Learned Counsel would contend that since the Petitioner did not accept the notice or was not present in the house, that the notice was required to be affixed on a conspicuous part of the outer wall of the Petitioner's

house and therefore the Petitioner could not now be heard to say that she was not served with the notice and therefore could not address the meeting.

6 In my view, there is no merit in the above Petition. It is required to be noted that the requisition which was moved under Section 35(1) of the Bombay Village Panchayat Act, has been moved by 7 members of the Grampanchayat. It is probably seeing the writing on the wall that the Petitioner had made herself scarce i.e. she was not present in the house or refused to accept the notice. As indicated above there is a panchnama to the said effect drawn by panchas dated 3-1-2015. If the Petitioner has refused to accept the notice and the notice was thereupon required to be pasted on a conspicuous part of her house as contemplated in Rule 7, the Petitioner cannot be heard to say that she has not received the notice. It is also impossible to accept or believe that the Petitioner was not aware that the meeting is to take place on 5-1-2015, considering the manner in which the Grampanchayat functions. The factum of their being two notices bearing No.1430 of 2015 both dated 31-12-2014 containing two dates of meeting i.e. the notice mentioning the date of meeting to be held on 5-1-2015 and the other notice mentioning the date as 3-1-2015, would in my view not further the case of the Petitioner, as it is nobodies case that the meeting which was purportedly to be held on 3-1-2015, was held on 5-1-2015. The Additional Collector has rightly observed that in a democracy the will of the majority is required to be respected. In the instant

case, as indicated above, the no confidence motion was passed against the Petitioner with a majority of 7: 0 that is the prescribed percentage required under Section 35(3) of the Bombay Village Panchayat Act, as the Petitioner was a woman Sarpanch. This Court does not find any infirmity or illegality in the procedure followed by the Tahsildar. In my view, the Petitioner should with all humility accept the fact that the mandate of the house is against her. In that view of the matter, no case for interference is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]