

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.763 OF 2016

Smt. Savita Ashok Kumthekar

Petitioner

Versus

The State of Maharashtra & others

Respondents

WITH
WRIT PETITION NO.747 OF 2016

Tukaram s/o Dattatraya Patil

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.A.N.Irpatgire, advocate for the petitioner

Mr.P.S.Patil, A.G.P. for Respondents No.1 to 3.

Mr.V.D.Gunale, advocate holding for Mr.B.N.Dhanure, advocate for Respondent No.4.

**CORAM : R.M.BORDE &
A.I.S.CHEEMA, JJ.
DATE : 21st January, 2016**

PER COURT:

1 Petitioners are objecting to the motion of no confidence passed against them in the special meeting convened by the Collector on 04.01.2016.

2 Petitioners occupied office of Chairman and Deputy Chairman, respectively, of Panchayat Samiti, Deoni. A Motion of No Confidence was moved against the Chairman and Deputy Chairman of the Panchayat Samiti by four elected members out of total strength of six members of Panchayat Samiti, Deoni. The requisition presented in that regard on 17.12.2015 was signed by four members mentioning therein names of movers of motion. The Collector issued notice on 21.12.2015, convening a Special Meeting of the Panchayat Samiti, Deoni, on 04.01.2016 at 11 O' clock in the morning at the office of Panchayat Samiti

Deoni. The notice of special meeting was duly served along with grounds of motion of no confidence on the Chairman and Deputy Chairman of the Panchayat Samiti. In the special meeting convened on 04.01.2016, motion of no confidence has been passed against the Chairman and Deputy Chairman with majority of four members voting in favour of the motion.

3 Petitioners contend that there is infraction of Rule 2 of Maharashtra Zilla Parishads Presiding Authorities (No Confidence Motion) Rules, 1962 (for short, "Rules of 1962"), which results in vitiating motion of no confidence passed against them.

4 Rule 2 of the Rules of 1962 provides for the form of requisition. The requirement is that the requisition to call a special meeting to consider a motion of no confidence in the President or Vice-President or both shall be in the form appended to the Rules. The requisition shall be accompanied by the text of the motion proposed to be moved specifying therein the grounds on which it is proposed to move the motion and the name of the Councillor who shall move the motion. The form appended to the Rules specifies that there shall be mention of names of the members who would move the motion.

5 According to the petitioners, the annexures accompanied with the notice issued by the Collector and served upon the petitioners informing the date and time of special meeting, do not bear signatures of members who have moved the motion nor there is any mention in respect of any member who is expected to move the motion in the special meeting. The requirement of Rule 2 is that the requisition presented to the Collector shall be accompanied by the text of motion proposed to be moved wherein it shall be specified, apart from the grounds, name of the member who proposes to move the motion.

6 In the instant matter, on perusal of the requisition tendered to the Collector, it does appear that same has been signed by four members and the requisition also does record names of movers of the motion. The grounds raised by petitioners, objecting to the non observance of Rule 2 of Rules 1962 do not appear to be sound. The petitioners, who have lost majority in the House, are expected to quit the office honourably and technicalities shall not impair will of the majority. Petitions are devoid of substance.

7 Both the writ petitions stand dismissed.

A.I.S.CHEEMA
JUDGE

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R.M.BORDE
JUDGE