

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

903 WRIT PETITION NO. 3641 OF 2016
WITH
CIVIL APPLICATION NO. 5209 OF 2016

Smt. Nagabai w/o. Ganpatrao Fajge,
Age 47 years, Occu. Household and Agril,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.

...Petitioner.

Vs.

1. The Tahsildar,
Tahsil Office Loha,
Tq. Loha, Dist. Nanded.
2. Kacharu s/o. Dhondiba Gore,
Age 65 years, Occu. Agril and Labour,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.
3. Yamunabai w/o. Vishwanath Kalhale,
Age 67 years, Occu. Household,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.
4. Dagadu s/o. Ganpati Bamanwad,
Age 50 years, Occu. Agril,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.
5. Kamalbai w/o. Nagorao Hake,
Age 43 years, Occu. Household,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.
6. Wanmala w/o. Keshav Torane,
Age 70 years, Occu. Household,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.

7. Pradip w/o. Balasaheb Fajge,
Age 38 years, Occu. Agril,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.
8. Uttam s/o. Narayan Gore,
Age 45 years, Occu. Agril,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.
9. Kamalbai w/o. Somaji Dhawale,
Age 70 years, Occu. Household,
R/o. Dagadsangavi, Tq. Loha,
Dist. Nanded.
10. Gramsevak,
Grampanchayat Karyalay,
Dagadsangavi, Tq. Loha,
Dist. Nanded.
11. Talathi,
Talathi Sajja Dagad Sangavi,
Tq. Loha, Dist. Nanded.

.....Respondents

Mr. P.S. Anerao, Advocate for petitioner.

Mr. B.A. Shinde, AGP for respondent Nos. 1, 11 & 12.

Mr. A.M. Gaikwad, Advocate for respondents 2 & 5 to 9.

Mr. V.B. Dhage, Advocate for respondent Nos. 3 & 4.

CORAM : T.V. NALAWADE, J.

DATED : 16th November, 2016.

JUDGMENT :

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The petition is filed to challenge the order made by the learned Additional Collector, Nanded in Dispute Application

No. 106/2015. The proceeding was filed for setting aside the resolution of No Confidence made against the petitioner, who was Sarpanch of village Dagadsangavi, Tahsil Loha, District Nanded. The Collector has dismissed the proceeding by observing that necessary procedure was followed and even the meeting was called and held within seven days from the date of requisition given by the members of Village Panchayat.

3) The submissions made and the record show that the village Panchayat consists of nine members. Six members gave requisition against the present petitioner, who is a lady to Tahsildar on 7.11.2015. Tahsildar made order to call meeting on 16.11.2015. The meeting was held on 16.11.2015. The meeting was not attended by the present petitioner. Six members attended the meeting and the resolution of No Confidence was passed unanimously.

4) Present proceeding is filed to challenge No Confidence Motion and also the order made by the learned Additional Collector on the ground that the meeting was not called within statutory period of seven days as provided in section 35 of Bombay Village Panchayats Act, 1958. The learned counsel for petitioner placed reliance on the case reported as

2002 (4) Bom.C.R. 425 [Ganesh Raghunath Samel Vs State of Maharashtra and Ors.]. In this case, the Apex Court has considered and interpreted the aforesaid provision of Bombay Village Panchayats Act and it is laid down that the meeting must be conveyed and held within seven days from the date of requisition.

5) The learned counsel for respondents submitted that on 7.11.2015 it was working day, but on 13.11.2015 it was not working day and the office was closed on other dates like 11.11.2015, 12.11.2015, 14.11.2015 and 15.11.2015 and so, the meeting was called and held on 16.11.2015. The order of Collector and the submissions show that though there was some festival like Bhaubij on 13.11.2016, the office was not closed on that day. The first day i.e. 6.11.2015 on which requisition was given can be excluded and the period needs to be counted from 7.11.2015. Thus, the last date of the statutory period falls on 13.11.2016 and 13.11.2016 was also working day. Thus, it was necessary to call meeting on 13.11.2015. The circumstance that between 7.11.2015 and 13.11.2015, there were holidays and the office was closed cannot be considered and similarly, the circumstance that on 14th and 15th November 2015 the office was closed also cannot be considered. If the Tahsildar has made

some mischief and he says that as he was busy on 13.11.2015 in other work, then appropriate action can be taken against him by the Disciplinary Authority. In such case, the persons, who want to move the No Confidence Motion need to be alert and when they receive the notice, they need to take steps to see that meeting is held within statutory period. As such step was not taken and meeting was held on 16.11.2015, the meeting itself was illegal. It is to be presumed that there was no such meeting and it will be open to the members to move the resolution by giving the requisition again.

6) In view of these circumstances, the petition is allowed. The order made by the learned Additional Collector is hereby set aside. The Dispute Application filed by the present petitioner is allowed and the resolution of No Confidence passed against the present petitioner stands set aside. Civil Application is disposed of.

Rule is made absolute in aforesaid terms.

[T.V. NALAWADE, J.]

ssc/