

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4475 OF 2016

Meenakshi Murlidhar Patil

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

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Mr. K.F. Shingare, Advocate for petitioner.

Mr. B.A. Shinde, A.G.P. for Respondent Nos.1 to 3.

Mr. B.S. Deshmukh, Advocate for Respondent No.4.

Mr. P.R. Katneshwarkar, Advocate for Respondent Nos.6to 15.

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CORAM : T.V. NALAWADE, J.

DATED : 17th NOVEMBER, 2016

ORDER :

1. The petition is filed to challenge the decision given by Additional Collector, Jalgaon in Dispute Application No. 35 of 2015 and Additional Divisional Commissioner, Nashik in Village Panchayat Appeal No. 50 of 2015. The dispute application was filed by present petitioner – the then Sarpanch to challenge the acceptance of the resignation tendered by her. The Additional Collector has dismissed the dispute proceeding and Additional Commissioner has confirmed the said decision. Both sides are heard.

2. Both sides drew the attention of this Court to the provision of Section 29 of the Maharashtra Village Panchayats Act, 1959. Learned Counsel for respondents submitted that the scope of verification is limited and in the meeting of village panchayat, it can only be ascertained as to whether the resignation was genuine. On the other hand, learned Counsel for petitioner places reliance on the decisions given by learned Single Judge of this Court in the case reported as **2006(6) Bom.C.R. 595 (Ravindra Bhaskar Lumpataki Vs. Chairman and Others)** and of Division Bench in Writ Petition No. 9577 of 2013 (Babanrao Uttamrao Jadhav Vs. The Additional Collector, Beed and Others). Learned Counsel for petitioner submitted that this Court has held that the Sarpanch has even right to withdraw the resignation if, the resignation has not taken legal effect, as provided in the act.

3. In view of other facts of the present case, this Court holds that there is no need to consider and discuss the proposition of law which can be seen in Section 29 and discussion about it made by this Court in aforesaid two cases.

4. The facts of present matter show that petitioner is admitting that her signature on resignation was obtained by her husband. It is her

case that even prior to date of resignation, her husband had made complaint to police and had expressed fear that the resignation from her wife was likely to be obtained. Learned Counsel submitted that separate letter was sent to the Chairman of Panchayat Samiti to inform that the resignation was not given voluntarily. Learned Counsel submitted that the petitioner was not present in the so called meeting which was held for verification of resignation and so the Additional Collector ought to have allowed the dispute proceeding. On the other hand, the record produced by other side shows that subsequent to the resignation and verification of resignation by village panchayat, no confidence motion was moved in the village panchayat meeting dated 16th September, 2015 and the resolution was passed with requisite majority. This resolution was challenged by filing proceeding before the Additional Collector and in the appeal it was submitted by present petitioner that she had already resigned from the post and resignation was verified in village panchayat meeting and so in law it was not possible to pass no confidence motion against her subsequent to the date of meeting dated 19th August, 2015. This contention was accepted by Additional Collector and proceeding was allowed and no confidence motion and meeting itself were held as illegal by Additional Collector.

5. In view of aforesaid circumstance, this Court holds that petitioner cannot be allowed to say that she had not resigned from the post. Her husband had obtained her signature of resignation. She remained absent when meeting was held by village panchayat for verification. In view of this circumstance, this Court holds that it is not possible to interfere in the order made by Additional Collector and decision given by Additional Divisional Commissioner.

6. In the result, petition stands dismissed. Learned Counsel for petitioner requested for continuation of protection granted by this Court. In view of aforesaid circumstance, the protection cannot be continue and same is rejected.

(T.V. NALAWADE, J.)

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