

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

WRIT PETITION NO.9176 OF 2016

Sitabai Kanu Rathod ... PETITIONER

VERSUS

The State of Maharashtra & ors. RESPONDENTS

.....
Shri A.M. Gaikwad, Advocate for petitioner
Shri S.R. Yadav, A.G.P. for respondent Nos.1 to 3
.....

CORAM: T.V. NALAWADE, J.

DATED: 30th August, 2016.

ORDER :

1. This petition is filed to challenge the order made by learned Additional Collector, Nanded in Appeal No.4/2016, which was filed by present petitioner to challenge the resolution of No Confidence Motion passed against her in requisition meeting called by the members of her Village Panchayat. She was Sarpanch of this village. Heard learned counsel.

2. It is the case of the petitioner that, she was out of station and she had applied for sanction of leave to the Chairman of Panchayat Samiti, Loha and also to Block Development Officer, Loha. On 19.12.2015, she had informed that she would be out of station for 15 days from 19.12.2015. It is her case that, behind

her back the requisition meeting was called and without serving the notice of the requisition meeting on her, the resolution was passed against her. It is her case that, she had no opportunity to have her say in respect of the grievances of the members and due to non service of notice, the resolution needs to be set aside.

3. The order made by learned Additional Collector shows that, on 21.12.2015, the requisition was given by 6 members of the Village Panchayat out of 9 members and on the same day, notice was issued by Tahsildar to call the meeting on 28.12.2015. Report was given by serving officer that other members were duly served with the notices but the petitioner and one Lalusing Rathod refused to accept the notices and so, notices were pasted on the doors of respective houses in the presence of panch witnesses by the serving officer, Talathi.

4. The order of Collector shows that, in the meeting, 6 members out of 9 members remained present. Present petitioner and 2 other members preferred to remain absent. The matter was discussed including grievances against the present petitioner and then resolution was passed. Though the Collector observed that leave was not sanctioned and so this circumstance cannot be considered, it can be said that, even if the leave was sanctioned, the things would not have been different. As per the service record in respect of the notice, the petitioner was very

much available in the village, but she refused to accept the notice. There is no record with her to show that she was not available on the day when Talathi had come to her residential place to serve the notice and she was out of station. Contents of copy of leave application show that, she had no intention to inform her exact address if she was leaving station for treatment. It shows that, she wanted to remain away from the place of meeting and she knew that the other members were moving no confidence motion against her by giving requisition. There is nothing with the petitioner to show that false record of service of notice is created. When she was very much present in the village, the burden was on her in view of provisions of Sections 106 and 114 of the Evidence Act to say something. She remained away and so, she could not exercise right to have her say in the meeting. In view of these circumstances, this Court holds that it is not possible to interfere in the order of the Collector.

5. In the result, the petition is dismissed.

(T.V. NALAWADE, J.)