

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

WRIT PETITION NO. 6284 OF 2016

Anita Pradeep Shingare

..PETITIONER

VERSUS

The Additional Collector, Osmanabad
and Others

..RESPONDENTS

....

Mr. V.D. Salunke, Advocate for petitioner.

Mr. B.A. Shinde, A.G.P. for Respondent Nos.1 and 2.

Mr. G.V. Wani, Advocate for Respondent No.3.

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CORAM : T.V. NALAWADE, J.

DATED : 22nd NOVEMBER, 2016

ORDER :

1. The petition is filed to challenge the order made by Additional Collector, Osmanabad in proceeding no. 355 of 2016 which was filed by present petitioner to challenge the no confidence motion passed against her by Village Panchayat, Khamgaon, Tahsil and District Osmanabad. Both sides are heard.

2. The submissions made show that the petitioner was elected to the post of Sarpanch on 25th September, 2015. The village panchayat consists of nine members. Out of that eight members gave requisition to

Tahsildar on 12th April, 2016 as they wanted to move no confidence motion. On 13th April, 2016 Tahsildar issued notice and called meeting on 16th April, 2016. This meeting was attended by present petitioner. The motion was moved. The petitioner applied and requested the Tahsildar to take voting by secret ballot but the Tahsildar asked him to present the application by following procedure before the Secretary and accordingly the application was presented. It is the grievance that even when there was request to take voting by secret ballot, the Tahsildar did not follow the procedure and so the motion itself was illegal. The motion was passed by majority of eight versus one.

3. Learned Counsel for petitioner submitted that in democracy when such request is made, the voting needs to be taken by secret ballot as there are many factors which work when such voting takes place. On the other hand, learned Counsel for respondent drew the attention of this Court to Rule 28 of the Village Panchayats Rules, 1959 and he placed reliance upon one case reported as *1997 BCI 5 (Aurangabad Bench) (Kishore Ramchand4ra Phalak Vs. Vilas Damodar Mahajan and Others)*. He submitted that in ordinary course voting needs to be open voting and only when majority requests, the voting can be by secret ballot. The wording of the Rule is to the same fact as submitted by

learned Counsel for respondent and this Court has also made similar observations in the reported case on which reliance is placed by respondent.

4. In view of these circumstances, this Court holds that there are no merits in the present proceeding. The petition is disposed of.

(T.V. NALAWADE, J.)

SSD