

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7470 OF 2016

Ravindra Dagdu Wagh ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. N.L. Chaudhari, Advocate for the petitioner.
Mr. S.N. Kendre, AGP for respondent-state.
Mr. Amol S. Sawant, Advocate for respondents no. 5, 6 & 9.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 19-07-2016.

Per Court :

1. Heard learned counsel for the petitioner and learned counsel for respondents no. 5, 6 and 9 and learned Assistant Government Pleader.

2. The bone of contention on behalf of the petitioner is requisite mandatory procedure in issuing notices and holding meeting of no confidence motion against the petitioner has not been complied with and or has been improperly followed.

3. Learned counsel for the petitioner Mr. Chaudhari submits that rule 2 (1) Maharashtra Village Panchayat Sarpanch and Upa-Sarpanch (No Confidence Motion Rules 1975) stipulates a notice under the same to the petitioner which has absolutely not

been issued to him. He further contends that in the meeting it was necessary to have followed the mandatory procedure of rule 17 of Maharashtra Village Panchayat (meeting rules 1959). According to the learned counsel the recording of minutes of meeting depicts that there was neither proposal nor seconding of the same and yet it has been shown to have that the motion has been passed by requisite majority.

4. Learned counsel for the respondents Mr. Sawant and learned Assistant Government Pleader, however, submits that all the requisite mandatory procedure has been duly followed. Any record shows that notice under rule 2(1) about no confidence motion rules had in fact been issued to the petitioner and has been received by him along with the notice of Tahsildar scheduling the meeting for passing the no confidence motion. He further refers to that there may be slight error in recording the minutes of the meeting. But it was not the case that there is no proposal or seconding of the same. In any case, resolution has been passed by majority as required under the rules. When the majority in democracy had lost confidence in the petitioner, it would have been futile exercise to send the matter doing re-exercise for the alleged procedural breach as is contended by the petitioner.

5. He submits that there are various rulings on the point

that when the majority loses confidence, procedural aspects which are not significant may not have any bearing over the outcome of the motion. He further contends that rule 17 has been held to be directory and not mandatory by Full Bench upon a reference.

6. Having regard to indisputable position that the notice under rule 2(1) of no confidence motion rule had accompanied the notice issued by Tahsildar holding the meeting for passing no confidence motion and further that the more than requisite majority has expressed that they have lost confidence in the petitioner, I do not see any substance being carried in the writ petition. As such, the writ petition stands rejected.

(SUNIL P. DESHMUKH)
JUDGE

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