

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

WRIT PETITION NO. 9025 OF 2016

SANGITA MAROTI BHUTE
VERSUS
THE PRESIDING OFFICER TAHSILDAR CHAKUR AND OTHERS

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Advocate for Petitioner : Shri Ashtekar R.K.
AGP for Respondent 1/ State : Shri PN.Kutti.
Advocate for Respondent 5 : Shri V.D.Gunale.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th October, 2016

Per Court:

1 The Petitioner is aggrieved by the order dated 03.08.2016 by which the Collector, Latur has rejected her grievance against the no-confidence motion passed.

2 Shri Ashtekar, learned Advocate for the Petitioner, strenuously submits that the impugned order dated 03.08.2016 is bad in law, legally unsustainable and hence, deserves to be quashed and set aside. He submits that the requisition motion by which the motion of no-confidence was moved against the Petitioner, dated 19.10.2015 was signed by one Mr.Tukaram Parve, who is Respondent No.3 in this petition. Respondent No.3 was disqualified by the order of the District Collector dated

25.08.2015. He could not have signed the requisition motion.

3 He further submits that the special meeting was convened by the appropriate authority to discuss the no-confidence motion on 26.10.2015. The Petitioner has received the notice and has duly participated in the said meeting. The no-confidence motion against the Petitioner as the Up-Sarpanch was passed by 07:02 votes. The grievance is that a disqualified person participated in the special meeting and as such, the entire business transacted in the said meeting is vitiated.

4 He further submits that Respondent No.3 has preferred Writ Petition No.9488/2015 for challenging his disqualification dated 25.08.2015 and has failed in acquiring interim relief from this Court. He, therefore, submits that the impugned order deserves to be quashed and set aside and the proposed election for the post of Up-Sarpanch cannot be held.

5 Shri Gunale, learned Advocate for Respondent No.5 and the learned AGP appearing for Respondent No.1/State, point out that the disqualification of Respondent No.3 was as a Sarpanch by order dated 25.08.2015. His disqualification as a member under Section 14(1-g) of the Maharashtra Village Panchayats Act has occurred on 28.12.2015. As such,

on 19.10.2015 when he signed the requisition and on 26.10.2015 when he participated in the special meeting, he was a valid member of the Village Panchayat.

6 I have considered the submissions of the learned Advocates as have been recorded herein above.

7 I find from the record that Respondent No.3 was disqualified as a Sarpanch for having failed to conduct the Gram Sabha and monthly meetings under Sections 7 and 36 of the Maharashtra Village Panchayats Act. Needless to state, it is the duty of the Sarpanch as per the provisions of the Maharashtra Village Panchayats Act to hold the Gram Sabha and monthly meetings. His disqualification by order dated 25.08.2015 notwithstanding the submissions of Shri Ashtekar, has to be restricted to his disqualification as a Sarpanch. It cannot be ignored that his disqualification as a member has occurred on 28.12.2015.

8 The motion was passed by 07 votes as against 02. Section 35(3) r/w the third proviso thereof indicates that if the position of a Sarpanch is reserved for a woman, the no-confidence motion has to be carried by a majority of not less than 3/4th of the total number of members who for the time being are entitled to sit and vote in the meeting. The

Petitioner was the Up-Sarpanch. Nevertheless, the motion of no-confidence was carried by 07:02 votes which is 3/4th of the members who were entitled to vote.

9 Considering the above, I do not find any reason to entertain this petition. This Writ Petition being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)