

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

905 WRIT PETITION NO. 9589 OF 2016

**SATTAR BABU KHATIK
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Shri. R.B. Ade, Advocate, holding for Shri. V.P. Raje,
Advocate, for petitioner.

Shri. S.N. Kendre, Assistant Government Pleader, for
respondent Nos.1 and 2.

Shri. Paresh B. Patil, Advocate, for respondent Nos.5 and
7 to 9.

CORAM: T.V. NALAWADE, J.

DATE : 15 SEPTEMBER 2016

ORDER:

1) The petition is filed to challenge the order made by the learned Additional Collector, Jalgaon in Village Panchayat Dispute Case No.56/2016 which was filed by the present petitioner to challenge the resolution of no confidence passed by the village panchayat. Heard both sides.

2) The petitioner was Sarpanch of village Nagduli, Tahsil Erandole. The strength of the village panchayat is 9. On 17-5-2016, six members of the village panchayat

gave requisition to the Tahsildar for calling meeting as they wanted to move no confidence motion against the present petitioner. The Tahsildar made order on the same day and called meeting on 23-5-2016 at 11.00 a.m. in the office of the village panchayat, Nagduli. The Gram Sevak took steps for service of the notice. The notice was served on adult member of the family of the petitioner as he was not available in the house. The meeting was held on 23-5-2016. One member, Naseembee gave application to the Tahsildar in the meeting and requested to prevent the members like Ravindra, Sangitabai and Gokul from participating in the meeting. She contended that proceedings were started for their disqualification and so they are not entitled to vote.

3) In the meeting discussion took place and there was voting. Six members voted in support of the resolution of no confidence and two members voted against it. As the resolution was passed by requisite majority, the Tahsildar declared that the no confidence motion was passed.

4) In the proceeding filed under section 35(3-B) of the Maharashtra Village Panchayats Act, present petitioner Sarpanch contended that the notice was not actually served on him and as there was no opportunity to him to file say in the meeting in respect of the allegations made against him, the resolution is illegal. Another ground was taken that in the resolution it was mentioned that requisition was dated 15-5-2016 and so the meeting was not called within prescribed period of 7 days from the date of requisition.

5) The record shows that the requisition was given on 17-5-2016 and the order was made on the same day by the Tahsildar to call the requisition meeting. The meeting was called and held within 7 days from the date of requisition. Thus, there is no force in one of the two challenges.

6) Before the Tahsildar affidavit of one member, Gokul, who was supporting the present petitioner, was filed to show that he had no intention to vote in support of the resolution but it was recorded that he had voted in

support of the resolution. It appears that when the resolution was passed on 23-5-2016, first time before the Additional Collector on 16-6-2016 said Gokul filed the affidavit. Such things do happen in politics. As prior to that date no steps were taken by this member to raise his grievance, he cannot be believed. Further, the Tahsildar had attended the meeting and in his presence the proceeding was conducted.

7) Though the defence was taken that notice was not served on the petitioner and petitioner was living separate from his son and daughter-in-law, no record like affidavits of those persons or record like voters list was produced. It can be said that there was no rebuttal to the record of the Gram Sevak showing that the notice was served on the daughter-in-law of the present petitioner. There was no reason to disbelieve the Gram Sevak and there are circumstances like the application given by one supporter of the present petitioner to the Tahsildar on the date of the meeting. In view of these circumstances it can be said that the present petitioner failed to turn up to the place of the meeting even when he had the knowledge and

the notice was served and so he has no room to say that there was no opportunity to have his say in respect of the allegations made against him by the members. This Court holds that there are no merits in the present petition. In the result, the petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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