

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

906 WRIT PETITION NO. 9596 OF 2016

ANIL PANDURANG LOKHANDE
VERSUS
THE ADDITIONAL COLLECTOR JALNA AND OTHERS

With

909 WRIT PETITION NO. 9604 OF 2016

VIMALBAI VISHNU LOKHANDE
VERSUS
THE ADDITIONAL COLLECTOR JALNA AND OTHERS

Shri. G.B. Kulkarni, Advocate, for petitioners.

Shri. U.H. Bhogale, Assistant Government Pleader, for
respondent Nos.1 to 3.

Shri. R.V. Gore, Advocate, for respondent No.4-Caveator.

CORAM: T.V. NALAWADE, J.

DATE : 15 SEPTEMBER 2016

ORDER:

1) The first petition is filed by the Upa-Sarpanch of village Baranjala Lokhande, Tahsil Bhokardan, District Jalna and the other proceeding is filed by the Sarpanch of the village to challenge the resolutions of no confidence.

2) Requisition was given for calling meeting of the village panchayat by six members of the village panchayat on 26-5-2016 to the Tahsildar. These members wanted to move no confidence motion against both, the Sarpanch and the Upa-Sarpanch. On the basis of this requisition the Tahsildar called requisition meeting of the village panchayat on 31-5-2016 at 2.00 p.m. in the office of the Village Panchayat Baranjala Lokhande. The notice was served on all the 9 members of the village panchayat by the Gram Sevak of the village. On 31-5-2016 the meeting was held in the office of the panchayat at 2.00 p.m. 8 members of the village panchayat attended the meeting. Motion was moved and in the resolution 6 members voted in favour of the resolution of no confidence and the resolution came to be passed. Both the petitioners participated in the meeting and they voted against the resolution. One member did not attend the meeting. As the resolution was passed by two-third majority such declaration was made by the Tahsildar. The resolution was challenged by both the petitioners by filing disputes under the provision of section 35 of the Maharashtra Village Panchayats Act, 1958. They contended that the

notice of the requisition meeting was not served on them.

3) The Additional Collector has considered the record which consists the record of service of notice of the requisition meeting. It includes report of the Gram Sevak and it shows that he had personally served the notices on all the members of the village panchayat. There is the record to show that the members signed or put their thumb impressions on the notice in acknowledgment of receipt of the notice.

4) Before the Additional Collector both the petitioners filed affidavits that the notice was not served. On the basis of the record, finding is given that the notices were duly served. Further there is circumstance that both the petitioners attended the requisition meeting and they participated in the discussion and also in the voting.

5) Learned counsel for the petitioner placed reliance on the case reported as **2010(6) Mh.L.J. 149 (Shivkant vs. Gram Sevak, Mauje Ratnapur)**. In that case, in view of the facts of that case, it was held that there was

no service of notice. Facts of each and every case are always different. In the present matter, the petitioners did participate in the requisition meeting and they participated in the discussion and they ultimately voted to oppose the no confidence motion. In view of these circumstances, it can be said that there was opportunity to them to have their say against the motion as provided in section 35 of the Act. In view of these circumstances, this Court holds that the Collector has not committed any error in dismissing the proceedings filed by the Sarpanch and the Upa-Sarpanch to challenge the resolutions made of no confidence. There are no merits in the petitions. In the result, both the petitions stand dismissed.

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

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