

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 WRIT PETITION NO. 9600 OF 2016

SURESH VISHWANATH KATE

VERSUS

THE ADDITIONAL COMMISSIONER AHMEDNAGAR AND OTHERS

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Advocate for Petitioner : Deshmukh H.D.

AGP for Respondents: U.H. Bhogale

Advocate for Respondents : Girish K Naik Thigle for R-5

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CORAM : T.V. NALAWADE, J.

DATE : 16-09-2016.

ORDER :

1. The petition is filed to challenge the decision given by learned Additional Collector in dispute filed by present petitioner under section 35(2), (3-B) of Village Panchayat Act, 1958. The said proceeding is filed to challenge the resolution of no confidence motion passed against the present petitioner, Sarpanch. Both the sides are heard.

2. The petitioner was Sarpanch of Village Hivre Zare, Taluka & District Ahmednagar. The strength of village panchayat is nine. On 22/07/2016 requisition was given by six members of village panchayat for calling special meeting as they wanted to move no confidence motion against the petitioner. On the same day the Tahsildar issued notice of requisition meeting and the meeting was called on 28/07/2016 in the office of village panchayat at 11.00 a.m. This meeting was attended by present petitioner.

There was discussion on the motion and then the resolution was passed of no confidence against the present petitioner by 2/3rd majority viz. 6 vs. 2. One member Smt. Jijabai abstained.

3. It is the case of petitioner that the procedure was not followed in the meeting there was no compliance of the provision of Rule 18 of the Meeting rules and so the resolution needs to be set aside. Learned counsel for the petitioner took this court through the said rule and he placed reliance on observations made by this Court in the case of **Vishnu Ramchandra Patil Vs. Group Gram Panchayat and Ors.** reported in **2013 (3) ALL MR 16** and also decision given by this court at Nagpur Bench in writ petition no. 4018 of 2013 in the case of **Parmanand Bhaulal Upwanshi Vs. Additional Collector, Gondia.** In both the matters this court has laid down that the procedure given in Rule 17 of Bombay Village Panchayats (Meeting) Rules, 1959 is mandatory in nature and only after compliance of this procedure voting is possible.

4. There is no dispute over the propositions made in aforesaid two cases by this court. Minutes of the meeting are available. They show that procedure given in Rule 17 was followed. The proposer had read the motion and then there was a discussion in which present petitioner took part and only after discussion voting was taken and Tahsildar read over the minutes of the meeting and only after that the signatures were put by the members of the village panchayat who had attended the meeting. The learned counsel for petitioner is placing reliance on the say filed by one member in the proceedings which was started before the collector. It appears that the said member, respondent no.8 of the original proceedings had also contended before collector that no information was supplied about the motion and the procedure given in Rule 18 was not followed.

5. The aforesaid record shows that present petitioner and the aforesaid members of village panchayat had participated in the discussion and they have signed on the minutes of the meeting after accepting the minutes. In view of these circumstances, it cannot be said that the Tahsildar had not followed the procedure which is mentioned in the minutes. After all it is matter of politics. Some times some members change the side. When there is such a situation, the collector is not expected to take decision on the basis of the say filed by such members who have changed the side. The record prepared by Tahsildar needs to be accepted as it is. The said member raised the grievance after about one month that too before the collector. There was no grievance at all even from the petitioner before the Tahsildar about the procedure which was followed in the said meeting.

6. Thus, the present petition is devoid of merits. There is no possibility of interference in the order made by the collector. In the result the petition stands dismissed.

(T.V. NALAWADE)
JUDGE