

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

911 WRIT PETITION NO. 10987 OF 2016

SHILA RAJENDRA PADUL  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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**And**

914 WRIT PETITION NO. 10991 OF 2016

AYUB DADA SHAIKH  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Shri. Suresh P. Salgar, Advocate, for petitioners.

Shri. S.N. Kendre, Assistant Government Pleader, for  
respondent Nos.1 to 3.

Shri. Nitin S. Ingle, Advocate, for the caveator.

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**CORAM: T.V. NALAWADE, J.**

**DATE : 27 OCTOBER 2016**

**ORDER:**

1) The first proceeding is filed by the Sarpanch and the other proceeding is filed by the Upa-Sarpanch to challenge the orders made by the learned Additional Collector, Aurangabad in appeals filed by these petitioners

to challenge the resolutions of no confidence passed against them. Both the sides are heard.

2) The village panchayat consists of 15 members. The Sarpanch is a lady. Out of 15 members, requisition was given by six members to call meeting as they wanted to move no confidence motion against present Sarpanch and Upa-Sarpanch. The requisition was given on 14th September 2016 and on the same day the Tahsildar made order of calling the meeting of the village panchayat on 20th September 2016. Separate notices in respect of the meeting in which the motions were to be moved against the Sarpanch and the Upa-Sarpanch were issued by the Tahsildar. Admittedly, both the Sarpanch and the Upa-Sarpanch attended the said meeting. The motion was moved. Both the Sarpanch and Upa-Sarpanch participated in the discussion and the motions were separately put for voting. Both the motions were separately passed with majority of 13 against 2. The learned Additional Collector has considered the aforesaid circumstances and has held that there is nothing on the basis of which interference is possible and the resolutions can be set aside.

3) Learned counsel for the petitioners submitted that the procedure given in the Bombay Village Panchayats Sarpanch and Upa-Sarpanch (No Confidence Motion) Rules, 1975 was not followed. He also submitted that at least 4 lady members of the village panchayat have not attended monthly meetings and this was brought to the notice of the Tahsildar but the Tahsildar allowed them to vote in the meeting. He submitted that no opportunity was given to both the Sarpanch and the Upa-Sarpanch to have their say when the motion was moved. He submitted that the minutes of the meeting do not show that the resolution was moved by a member and it was seconded by the other member.

4) It is true that the minutes of the meeting do not show that in the meeting the resolution was moved by a member and it was seconded by other member. However, the record shows that all the members who had called the requisition meeting were present and the motions were moved in the meeting. First the motion was moved against the Sarpanch and the discussion took place on that

motion. The minutes show that both the Sarpanch and the Upa-Sarpanch participated in the discussion to oppose the motion and this happened when both the motions were moved. Only after the discussion was over, the motion was put to vote and it was passed with the majority quoted above. It can be said that there is some irregularity like not separately mentioning the names of the members who could have proposed the resolution and who could have seconded the same. However, when six members were there and they moved motion together, it needs to be presumed that the resolutions were seconded. Further both the motions were passed with majority of 13 against 2. In view of these circumstances it can be said that it was the desire of the majority of the members to pass the no confidence motion. The learned Additional Collector has rightly observed that the Sarpanch and the Upa-Sarpanch had lost the confidence of the members. In view of these circumstances this Court holds that, above circumstance cannot vitiate the meeting which was held for moving no confidence motion. The circumstance that four lady members were absent in the monthly meetings also cannot be considered in favour of the petitioners in

view of provision of section 16(2) of the Maharashtra Village Panchayat Act, 1958. Till the order of disqualification is made by the Collector, members are entitled to participate in the meeting. In the result, both the petitions are dismissed.

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

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