

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

WRIT PETITION NO. 11568 OF 2016

Shobhabai Hiralal Patil

..PETITIONER

VERSUS

The Returning Officer/Tahsildar,
Jalgaon and Others

..RESPONDENTS

....

Mr. V.P. Patil, Advocate for petitioner.

Mr. S.K. Tambe, A.G.P. for Respondent No.1.

Mr. P.B. Patil, Advocate for Respondent No.6.

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CORAM : T.V. NALAWADE, J.

DATED : 23rd NOVEMBER, 2016

ORDER :

1. Notice. It is waived by learned Counsel for caveator – Respondent No.6. Learned A.G.P. is also heard.

2. The proceeding is filed to challenge the order made by Additional Collector, Jalgaon in Dispute Application No. 88 of 2016. The dispute proceeding filed by present petitioner – Sarpanch of Hingane (Kh), Tahasil Dharangaon, District Jalgaon for setting aside the resolution of no confidence is dismissed by the Additional Collector.

3. The submissions made and reasoning given show that in this village panchayat there are seven members. The requisition was given by five members to Tahsildar on 27th June, 2016. On copy of requisition, no date is mentioned but in copy of order of notice issued by Tahsildar it is mentioned that the requisition was presented before him by five members on 27th June, 2016. In that regard there is no need to disbelieve Tahsildar. Tahsildar called meeting on 30th June, 2016 and the meeting was attended by all seven members of village panchayat including present petitioner. Minutes of meeting are produced and they show that requisition was read over and this resolution was discussed. An opportunity was there to present petitioner also to speak on the subject. Thus, procedure laid down in Section 35 of the Maharashtra Village Panchayats Act, 1958 was followed. Resolution was passed by majority of five versus zero and it was open voting by raising hands.

4. Before the Collector, the present petitioner challenged the resolution on the grounds that the requisition notices were not in the prescribed form, thumb impressions of three members of village panchayat were not attested and some other technicalities. Learned Counsel for respondent – members of village panchayat placed reliance on observations made by Full Bench of this Court in the case reported as

2011(3) Bom.C.R. 495 (Viswas Pandurang Mokal Vs. Group Gram Panchayat Shihu and Others) and by Single Judge in the case reported as *2015(4) Mh.L.J. 278 (Vaishali Balasaheb Chavan Vs. Additional Collector, Ambajogai and Others)*. In both the cases, this Court has discussed various rules framed for filing of no confidence and Section 35 of the Maharashtra Village Panchayats Act, 1958. The importance of right given to the Sarpanch and Up-Sarpanch to speak on the resolution in view of procedure is discussed. It cannot be substantiate that other technicalities cannot vitiate the meeting.

5. In view of this circumstance, this Court holds that it is not possible to interfere in the decision given by the Additional Collector and it is not possible to set aside the resolution of no confidence passed against the present petitioner. In the result, petition stands dismissed.

(T.V. NALAWADE, J.)

SSD