

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

924 WRIT PETITION NO. 11833 OF 2016

PRATIBHA VISHNU BHANGALE
VERSUS
THE RETURNING OFFICER/ TAHSILDAR JALGAON AND
OTHERS

Shri. Vinod P. Patil, Advocate, for petitioner.

Shri. R.B. Bagul, Assistant Government Pleader, for
respondent No.1.

Shri. P.B. Patil, Advocate, for respondent Nos.6,9 and 12.

CORAM: T.V. NALAWADE, J.

DATE : 30 NOVEMBER 2016

ORDER:

1) Notice to the respondents. Learned Assistant Government Pleader waives notice for respondent No.1. Learned counsel Shri. P.B. Patil waives notice for respondent Nos.6,9 and 12. Heard learned counsels for both the sides.

2) The petition is filed to challenge the order made by learned Additional Collector, Jalgaon in Dispute Application No.99/2016. The Dispute Application was filed

by the present petitioner for setting aside the resolution of no confidence passed against him. After giving opportunity to both the sides, the proceeding is dismissed by the learned Additional Collector.

3) It was contended before the Collector and it is submitted in this proceeding also that some false record of minutes of the meeting and even of service of notice on the present petitioner and few other members was created and due to that the meeting itself was illegal. Learned counsel for the petitioner submitted that before the Collector at least 4 members had filed say in support of the contention made by the present petitioner and today also these 4 members are with the petitioner and they are ready to file affidavit in support of the contentions made by the petitioner.

4) The submissions made show that, there are 17 members in Village Panchayat Kanlada, Tahsil and District Jalgaon. Out 17 members, 13 members gave requisition against the present petitioner on 12-8-2016 as they wanted to move no confidence motion against the

petitioner. On the same day, the Tahsildar made order and called meeting on 16-8-2016. The meeting dated 16-8-2016 was attended by 15 members but the present petitioner and one Nilesh Bhangale did not attend the meeting. The motion was moved and then there was discussion on the motion and the motion was passed by majority of 15 versus zero. These minutes were made available to the Collector for consideration.

5) Learned counsel for the petitioner drew attention of this Court to few circumstances like the difference in thumb impression of one member on the requisition and the thumb impression of the same member on the minutes of the meeting. Learned counsel submitted that the minutes of the meeting show that some members had not accepted the contentions which were made against the present petitioner and due to this record it cannot be believed that these members voted in favour of the resolution. Learned counsel for the petitioner submitted that even the Tahsildar was acting under influence of one Minister and due to that probably false record is created.

6) Anything can happen in politics. It is possible that on that date all the 15 members were on one side and they wanted to move the resolution of no confidence against Sarpanch. It is not necessary that on the next day of the meeting they remain on the same side. In politics persons do change sides. The Tahsildar was there when the meeting was conducted and it cannot be said that the 15 members whose presence is shown in the minutes of the meeting were absent and false record of their attendance was created. It needs to be presumed that he had followed the procedure and there is record like minutes of the meeting showing the procedure contemplated in section 35 of the Maharashtra Village Panchayats Act, 1958 was followed.

7) Learned counsel for the petitioner submitted that false record of service of notice was created against the present petitioner. This submission is also not acceptable as the report of service is given by the serving officer who is the Talathi. There is no reason to disbelieve these two Government officers like Talathi and the Tahsildar. In the present matter the

Collector has considered all these circumstances. Only because some of the members disown their signatures now it cannot be said that no confidence motion was not moved against the petitioner and it was not passed with the aforesaid majority. The present petitioner was elected as Sarpanch from women category and so the majority of three-fourth was necessary and the resolution was passed with such majority. In view of these circumstances, it is not possible to interfere in the order made by the learned Additional Collector. In the result, the petition stands dismissed.

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

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