

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 797 OF 2016

Sou. Shantabai Shivanand Honmurgikar .. Petitioner
vs.
State of Maharashtra and ors. .. Respondents

Mr. Priyal G. Sarda for the Petitioner.
Mr. S.D. Rayrikar, AGP for Respondent Nos.1 to 3.
Mr. A.B. Tajane for Respondent Nos.10 and 11.

CORAM : M. S. SONAK, J.
DATE : 25 JANUARY 2016.

P.C. :-

1] The challenge in this petition is to the order dated 4 January 2016, by which the Additional Collector, Solapur has dismissed the Petitioner's appeal under Section 35 of the Maharashtra Village Panchayats Act, 1958 (said Act), questioning her removal as a Sarpanch, in pursuance of no confidence motion passed against her on 3 December 2015.

2] The learned counsel for the Petitioner has submitted that in this case, there has been breach of Rules 17 and 18 of the Bombay Village Panchayat (Meeting) Rules, 1959 (said Rules), inasmuch as there was no debate or discussion upon the motion of no confidence. The charges against the Petitioner was neither made known to her nor was she offered any opportunity to rebut the same. The learned

counsel relied upon the decision of the Division Bench of this Court in case of *Ashok Krishnakant Mehta Vs. State of Maharashtra and ors.*¹ to submit absence of debate and discussion, renders the no confidence motion null and void.

3] Upon hearing the learned counsel for the parties and perusing the record, in my judgment, there is no case made out to interfere with the impugned order. The minutes which are on record establish substantial compliance with the provisions contained in Rules 17 and 18 of the Rules. In this case, the motion was proposed as well as seconded. The minutes record that opportunity of discussion and debate was granted by the Presiding Officer. The Presiding Officer, very categorically explained the minutes of meeting. There is reference to the charges against the Petitioner, i.e., the charge of taking decisions without taking into confidence other members , failure to timely convene the Gram Panchayat Sabha meetings and so on. The minutes also indicates that though opportunity for discussion and debate was offered, it is the Petitioner, who demanded voting by secrete ballot. This is clearly not a case of breach of Rules 17 and 18 of the said Rules. Even otherwise, the Full Bench of this Court in case of *Tatyasaheb R. Kale vs. Navnath T.*

1 2000(4)Mh.L.J. 197

*Kakde*², has held that Rule 17 is only director and a motion of no confidence cannot be invalidated on the grounds of its breach. In this case, as noted earlier, no breach, in any case, has been established.

4] The decision in case of *Ashok Mehta (supra)*, is not at all applicable to the facts and circumstances of the present case. In that case, certain members were excluded from addressing Village Panchayat and thereby were deprived of opportunity to debate and discussion upon the motion of no confidence. Such is not position in the present case. Here, opportunity was granted. The minutes clearly reflect this position.

5] The Panchayat comprises in all nine members, out of which seven members have voted against the Petitioner and expressed want of confidence in her. There is really no case made out by the Petitioner warranting any interference with the impugned order.

6] This petition is, therefore, dismissed. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

2 AIR (BOM)-2015-0-87