

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12768 OF 2015

Mr. Nivrutti Vilas Jadhav.] ... Petitioner

Versus

Mr. Sambhaji Vitthal Turai and Ors.] ... Respondents

Mr. Anilkumar K. Patil for Petitioner.

Mr. P. G. Sarda for Respondent Nos.1 to 7.

Mr. S. D. Rayrikar, A.G.P., for Respondent Nos.10 to 12.

CORAM :- M. S. SONAK, J.

DATE :- JANUARY 07, 2016

P. C. :-

1. The challenge in this petition is to the order dated 14/12/2015 made by the Additional Collector, Sangli, dismissing the petitioner's appeal under Section 35 (3-B) of the Maharashtra Village Panchayats Act, 1959 ('said Act') in the matter of no confidence motion passed against the petitioner on 06/11/2015.

2. The petitioner was the *Sarpanch* of Gram Panchayat Vhaspeth. In pursuance of motion of no confidence passed against him in the special meeting held on 06/11/2015, the petitioner has been voted out from the said position. Out of the 9 members constituting the *Panchayat*, 7 members have expressed want of

confidence against the petitioner. The petitioner appealed against the passage of no confidence motion to the Additional Collector invoking the provisions contained in Section 35 (3-B) of the said Act. By the impugned order dated 14/12/2015, the Additional Collector has turned down the petitioner's appeal. Hence the present petition.

3. Mr. Patil, learned Counsel for petitioner, has submitted that one of the members of the *Panchayat* i.e. Annappa Godhe was never served with the notice of the special meeting held on 06/11/2015. He submits that such non-service constitutes a breach of mandatory provisions contained in Rule 7 of Bombay Village Panchayats Rules, 1959 ('the Rules') and therefore, the passage of motion of no confidence is a nullity. He points out that though this ground was specifically urged before the Additional Collector, *inter alia*, by said Annappa himself, there is no consideration thereof by the Additional Collector. That apart, Mr. Patil submitted that there was non-compliance with other rules, inasmuch as, the motion for no confidence was neither proposed nor seconded by any member of the *Panchayat*. For all these reasons, Mr. Patil submitted that the impugned order is liable to be set aside and the petitioner be restored to the position of *Sarpanch*.

4. Having heard the learned Counsel for parties and perused the record, in my judgment, there is no case made out to interfere with the impugned order. The minutes of the special meeting dated 06/11/2015 specifically record the presence of said Annappa at the

meeting. The minutes also record that Annappa has taken effective part in the meeting and has also voted against the motion of no confidence. The meeting nowhere records that Annappa had raised any grievance at the meeting with regard to the alleged non-service of notice of the consequent prejudice that may have occasioned to him on account of such alleged non-service of notice. Significantly, Annappa has not instituted the present petition complaining about non-service of notice. In these circumstances, it cannot be said that Annappa was not served with the necessary notice or that there is any breach of mandatory provisions in the matter of passage of motion of no confidence. On the aspect of alleged failure to propose or second the motion, the Full Bench of this Court, in the case of ***Shri Tatyasaheb Ramchandra Kale vs Shri Navnath Tukaram Kakde & Ors.***¹ has already ruled that such provision is only directory and no confidence motion passed cannot be annulled on the ground of non-compliance with the said provision.

5. As noted earlier, in this case, 7 out of 9 members of the *Panchayat* have expressed want of confidence against the petitioner. The petitioner has failed to demonstrate any breach of mandatory provisions in the matter of passage of motion of no confidence. There is no jurisdictional error in the making of the impugned order. Therefore, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

¹ 2014 (6) BomCR 705