

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.11642 OF 2016

Rajashri Rajesh Kokate : Petitioner.
Versus
Gram Sevak, Gram Panchayat, Neral,
Tal.Karjat, Dist.Raigad & ors. : Respondents.

Mr. Surel Shah i/by Mr. R M More for the Petitioner.
Mr. P M Patil for the Respondent Nos.2 and 3.
Mrs. S S Bhende AGP for the Respondent No.4.

CORAM : R. M. SAVANT, J.
DATE : 21st April 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 11/04/2016 passed by the Divisional Commissioner, Konkan Division by which order the Appeal filed by the Petitioner came to be dismissed and resultantly the order dated 09/03/2016 passed by the Additional Collector, Alibag, Dist. Raigad came to be confirmed.

2 The Petitioner was the Sarpanch of Gram Panchayat, Neral, Tal.Karjat, Dist.Raigad. The Petitioner tendered her resignation vide her letter dated 03/02/2016. The said letter has been signed by two witnesses. In view of the resignation tendered by the Petitioner, a notice came to be issued by the office of the Panchayat Samittee, Karjat which notice is dated 09/02/2016. By the said notice it was informed that a meeting of the GramPanchayat would be

held on 17/02/2016 to consider the resignation of the Petitioner. The said meeting was accordingly held on 17/02/2016 in which meeting the Petitioner was present and has signed in acknowledgement thereof. In the said meeting the resignation of the Petitioner was accepted and accordingly a resolution came to be passed to that effect. The minutes of the said meeting was prepared thereafter, which minutes have also been signed by the Petitioner. After the said meeting dated 17/02/2016 was concluded, the Petitioner addressed a letter to the Additional Collector on 18/02/2016 for the first time raising a dispute as regards her resignation. In the said letter it was mentioned by the Petitioner that she was made to resign on account of force and undue influence. The said letter it seems was not countenanced by the Collector resulting in the Petitioner's invoking Section 29(3) of the Maharashtra Village Panchayats Act (for short "the said Act"), and the said letter was treated as an application raising a dispute as contemplated under Section 29(3) of the said Act. The Collector has by his order dated 09/03/2016 has dismissed the dispute application having regard to the fact that the Petitioner had not taken any exception to her resignation in the meeting held on 17/02/2016 and had also thereafter signed the minutes of the said meeting.

3 The order dated 09/03/2016 passed by the Additional Collector was challenged by the Petitioner by way of an Appeal before the Divisional Commissioner, Konkan Division. The Divisional Commissioner did not deem it

appropriate to interfere with the order passed by the Additional Collector and accordingly by the impugned order dated 11/04/2016 dismissed the Appeal. The Divisional Commissioner adverted to the fact that the resignation of the Petitioner was in the prescribed format. The said resignation dated 03/02/2016 was forwarded to the Gram Vikas Officer for being kept in the monthly meeting of the Gram Panchayat for consideration. The agenda for the meeting dated 17/02/2016 was also issued under the signature of the Petitioner, and that in the meeting the Petitioner has not taken any objection to the said resignation. The Divisional Commissioner also observed that the Petitioner has not questioned her signature as also the signatures of the two witnesses. As indicated above, the Divisional Commissioner accordingly deemed it appropriate to dismiss the Appeal.

4 It was the submission of the learned counsel appearing on behalf of the Petitioner that under Section 29(3) of the said Act, it was obligatory on the part of the Additional Collector to consider the genuineness of the resignation and that having not been done so, the proceedings are vitiated. In support of the said contention, the learned counsel for the Petitioner sought to place reliance on a judgment of this Court rendered in Writ Petition No.9733 of 2015 in the matter of Ashok Maruti Dhamnase v/s. State of Maharashtra and ors. It was also the submission of the learned counsel for the Petitioner that since it is the intention of the Petitioner to withdraw her resignation and

that the same has been done before the resignation coming into force, in terms of Section 29 the Petitioner is entitled to continue as Sarpanch. In support of the said contention the learned counsel for the Petitioner sought to place reliance on the judgment of a Division Bench of this Court in the matter of **Rajesh s/o Matadin Jaiswal and others v/s. Village Panchayat, Wadi** reported in **1987(1) Bom.C.R. 528**.

5 In my view, it is not possible to accept the contentions urged on behalf of the Petitioner. It is required to be noted that the Petitioner has not objected to her resignation in the meeting held on 17/02/2016 specifically for the said purpose, the agenda for which was issued under the signature of the Petitioner. The Petitioner has also not questioned her signature appearing on the resignation as also the signatures of the two witnesses. The stand taken by the Petitioner in the dispute application therefore seems to be an afterthought as there is absolutely no contemporaneous material to indicate that the resignation of the Petitioner was obtained by coercion or undue influence. In my view, therefore, the judgment in **Ashok Maruti Dhamnase's** case (supra) would have no application. Since the intention of the Petitioner as stated in the letter dated 03/02/2016 is writ large viz that she has resigned from the post of Sarpanch, the judgment of the Division Bench in **Rajesh Matadin Jaiswal's** case (supra) would also have no application. In that view of the matter, no case for interference in the writ jurisdiction of this Court is therefore made out.

The above Writ Petition is accordingly dismissed.

6 The learned counsel for the Petitioner prays that the post of Sarpanch should not be filled up for some period of time. In my view, it is not possible to stall the democratic process. The said prayer is accordingly rejected.

[R.M.SAVANT, J]