

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

WRIT PETITION NO. 8484 OF 2016

Mrs. Shalan Ananda Marade

... Petitioner

vs.

Shri. Shahaji Pandurang Suryawanshi & ors.

... Respondents

Mr. Balwant V. Salunkhe, Advocate for the petitioner.

Mr. Umesh R. Mankapure, Advocate for respondents no.1 to 8.

Mr. S. D. Rayrikar, Additional Government Pleader for respondents no.9 to 12.

Coram : Smt. R. P. SondurBaldota, J.

Date : 1st August, 2016.

P.C. :

1 This petition challenges the order dated 7th July, 2016 passed by Additional Collector, Sangli in Dispute Application No. SR/15/2016, dismissing petitioner's dispute application under Section 34 (3) (b) of the Maharashtra Village Panchayat Act, 1958.

2 The petitioner was elected as a Sarpanch of village Kadamwadi. On 1st June, 2016 a special meeting of the Panchayat was held and no confidence motion was moved against her on the ground that her son had been interfering with the functioning of the Grampanchayat and the petitioner had been acting at the dictum of the son. It was also alleged that she was refusing to sign the official papers and when required. The strength of the Grampanchayat is of 11 members. The meeting was attended by 8 persons. The petitioner did not attend that meeting. The 8 members present supported the motion and the same was

passed.

3 The petitioner challenged that no confidence motion contending that required strength for passing no confidence motion was not available on that day. It is her argument that considering the strength of Grampanchayat of 11 members, the required $\frac{3}{4}$ th majority would be of 9 members, since the arithmetical calculation of $\frac{3}{4}$ th of 11 would be 8.25. The Collector considered the dispute raised by the petitioner and rejected it with a reasoning that the majority of 8, in the facts and circumstances of the case, can be taken as $\frac{3}{4}$ th majority because as per arithmetical calculation in case of a fraction falling below 0.5 the lower complete number would be accepted as the complete number and if the fraction is more than 0.5 the subsequent higher number is accepted as the complete number. The order says that the arithmetical calculation in the case on hand being of 8.25, it being less than 0.5, the majority of 8 would be the $\frac{3}{4}$ th majority.

4 Mr. Salunkhe, the learned advocate for the petitioner submits that the Bombay Village Panchayat Sarpanch and Upsarpanch (No Confidence Motion) Rules, 1975 applicable herein do not provide for such eventuality. Therefore assistance can be taken of the Bombay Village Panchayat (Sarpanch and Upsarpanch) Election Rules, 1964, under which Rule 11 which provides for the coram of the meeting of election for Sarpanch and Upsarpanch. It explains that if the number of members of Grampanchayat is odd, in calculating the half number for the purpose of coram fraction of the number shall be accepted as 1 e.g. if number of persons is 7 the required coram shall be 4 and if the number is 9 the coram shall be 5 and so on. Mr. Mankapure, the learned advocate for the respondent submits per contra that in the absence of specific provision in the Rules applicable, the exercise by the Collector of applying the general arithmetic rule cannot be said to be incorrect. He also submits that the

application of arithmetic rules is also supported and approved by the Apex Court in it's various decisions.

5 In my opinion, there is substance in the submission of Mr. Mankapure. Considering the facts and circumstances of the case, no fault can be found with the Collector for holding the coram that passed no confidence motion was sufficient and it satisfies the requirements of law. In the absence of the specific provision in the Rules applicable, the Collector could have applied the simple arithmetic rule. Out of 11 persons 8 persons were present. The petitioner herself was absent and 2 more members were absent. No confidence motion was passed unanimously by all the members present in the meeting. Hence, there is no merit in the petition. The petition is dismissed.

[Smt. R. P. SondurBaldota, J.]