

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

WRIT PETITION NO.13792 OF 2016

Shri. Vijay Dnyaneshwar Pawar
Versus

..Petitioner

Shri. Lahu Ramhari Pawar and others

..Respondents

Mr. S. S. Salunkhe for the Petitioner.

Mr. S. B. Kalel, AGP for the Respondent Nos.9 & 10.

CORAM : R. M. SAVANT, J.

DATE : 19th DECEMBER, 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 14.10.2016 passed by the Additional Collector, Solapur, by which order, the dispute application filed by the Petitioner against the “No Confidence Motion” passed against him came to be dismissed.

2 The Petitioner was elected as a Sarpanch of village Umbargaon, Taluka Pandharpur, District Solapur in the year 2011. The Gram Panchayat of Umbargaon comprises of 9 members. It seems that 6 members moved the Tahsildar for requisitioning a meeting for passing of “No Confidence Motion” against the Petitioner. The said requisition was made on 02.08.2016. In terms of the requisition, the meeting was held on 09.08.2016. In the said meeting, the “No Confidence Motion” was passed unanimously by the 6 members of the Gram Panchayat who were present.

The Petitioner and two others did not remain present in the meeting. After the “No Confidence Motion” was passed against the Petitioner, the Petitioner filed a dispute application under Section 35(3-B) of the Maharashtra Village Panchayats Act. The said resolution of “No Confidence Motion” passed against him was challenged by the Petitioner inter-alia on the ground that the notice of the meeting was not served upon the Petitioner and that the signature on the acknowledgement is bogus, and that after the Petitioner came to know of the said meeting, though the Petitioner attempted to attend the meeting, he was prevented from doing so by some people. The said grounds have been dealt with by the Competent Authority i.e. the Additional Collector. In so far as the service of notice and the signature of the Petitioner thereon is concerned, the Additional Collector held that whilst deciding the dispute application he cannot go into the dispute as regards the genuineness of the signature or otherwise. In so far as the second ground, the Additional Collector has held that the Petitioner has not produced any contemporaneous material by way of complaint lodged with the police etc. that he was prevented from attending the meeting. The Additional Collector accordingly by the impugned order dated 14.10.2016 has dismissed the dispute application.

3 The Learned Counsel appearing on behalf of the Petitioner Mr. S. S. Salunkhe would seek to reiterate the two grounds which were

urged before the Competent Authority i.e. the Additional Collector, namely that the Additional Collector ought to have gone into the genuineness of signature or otherwise and seeks to rely upon the judgment of a Learned Single Judge of this Court reported in 2002 4 ALL MR 110. The Learned Counsel would also contend that the Petitioner was prevented from remaining present in the meeting and thereby a valuable right of the Petitioner of addressing the meeting has been taken away.

4 In my view, it is not possible to accept the said contentions urged on behalf of the Petitioner. It is required to be noted that out of the 9 members of the Gram Panchayat, Umbargaon, 6 members had moved before the Tahsildar requisitioning a meeting to pass a “No Confidence Motion” against the Petitioner. The resolution is passed unanimously by the 6 members who were present in the meeting. Though the Petitioner has sought to dispute the genuineness of his signature on the acknowledgments, he has endorsed on the notice of the meeting. The said fact gets diluted having regard to the Petitioner's case that after getting knowledge as to holding of the meeting, the Petitioner tried to attend the meeting, but was prevented from doing so. In support of the said case, the Petitioner has not produced any contemporaneous material by way of police complaint etc. and therefore the Competent Authority i.e. the Additional Collector has rightly rejected the said case of the

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Petitioner. In my view, probably seeing the writing on the wall, where 6 members out of 9 of the Gram Panchayat had given the requisition for calling the meeting to pass a “No Confidence Motion” against him that the Petitioner chose to remain absent from the meeting. In my view, therefore, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]