

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6585 OF 2015

SMT. KAMLABAI FAGU SHENDE
VS
ADDITIONAL COLLECTOR, GONDIA AND 7 OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri O. L. Gupta Advocate for the petitioner.
Shri A. M. Kadukar, AGP for respondent No.1.
Shri Dilip T. Harinkhede Advocate for the respondent nos.2,3 & 5 to 8.

CORAM : A.S. CHANDURKAR, J.
DATED : AUGUST 03, 2016.

Heard.

The challenge in the present writ petition is to be order dated 27-11-2015 passed by the Additional Collector in dispute under Section 35 (3-B) of the Maharashtra Village Panchayats Act, 1958. By the said order, the dispute raised by the petitioner has been rejected and the no-confidence motion dated 9-7-2015 has been upheld.

The petitioner who is the Sarpanch of Gram Panchayat, Malhi was subjected to a motion of no-confidence by eight members who had given a requisition in that regard dated 3-7-2015. Notice of special meeting was issued on the same day and in the said meeting held on 9-7-2015, the motion was passed against the petitioner.

Shri O. L. Gupta, the learned Counsel for the petitioner submitted that there was no proper service of the notice of the special meeting dated 3-7-2015. He submitted that the notice was sought to be served on the neighbour of the petitioner as the petitioner was unwell and was

undergoing treatment. He further submitted that the motion was not put to vote in a proper manner. There was no discussion on the points mentioned in the requisition. He also submitted that though it was recorded that seven members had voted in favour of the requisition, one of the members had filed his affidavit before the Additional Collector disputing the fact that he had voted in favour of the motion. It was, therefore, submitted that the Additional Collector without considering these aspects held against the petitioner.

Shri D. T. Harinkhede, learned Counsel for the respondent nos.2, 3 & 5 to 8 as well as Shri A. M. Kadukar, learned Asstt. Government Pleader for the respondent no.1 supported the impugned order. It was submitted that all these grounds sought to be raised by the petitioner were by way of afterthought. The notice of special meeting was served on the son of the petitioner as the petitioner was not available at her residence. This notice was served on 5-7-2015 and thereafter on 8-7-2015, the petitioner has lodged a report at Police Station, Amgaon which indicated knowledge of the meeting that was to be held on 9-7-2015. It was further submitted that the affidavit filed by the respondent no.4 is dated 27-8-2015 much after the resolution was passed on 9-7-2015. It was, therefore, urged that the Additional Collector rightly decided the dispute.

I have heard the respective Counsel for the parties at length.

Perusal of the documents on record indicates that the notice dated 3-7-2015 was served on the son of the petitioner on 5-7-2015. The fact that on 8-7-2015, the petitioner lodged a report indicated that she was fully aware of the special meeting that was to be held on 9-7-2015. There is no reference in this report regarding non-service of the

notice dated 3-7-2015. In so far as passing of the resolution by 3/4th majority is concerned, the minutes recorded by the Presiding Officer clearly indicate that the fact that all seven members who were present in the meeting had voted against the petitioner. The affidavit filed on behalf of the respondent no.4 appears to be by way of an afterthought as the signature of the respondent no.4 was obtained by the Presiding Officer while recording the minutes of meeting. No grievance was raised by the respondent no.4 at that point of time. In so far as the conduct of the proceedings are concerned, it does not lie in the mouth of the petitioner that the same were not in accordance with law. The petitioner did not attend the said meeting despite having notice of the same.

The Additional Collector while passing the impugned order has considered all the relevant aspects. I do not find any case made out to interfere in writ jurisdiction.

The writ petition is, therefore, dismissed with no order as to costs.

JUDGE

/MULEY/

C E R T I F I C A T E

“ I certify that this Order uploaded is a true and correct copy of original signed Order.”

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