

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.2497 OF 2017

Mangal w/o Vinayak Kele (Pandav)
Age 35 years, Occu. Household,
R/o Arvil, Tq. and District Dhule ... PETITIONER

VERSUS

- 1) The Collector, Dhule,
District Dhule.
- 2) The Tahsildar, Dhule,
Tq. and District Dhule
- 3) The Talathi,
Grampanchayat, Arvi,
Tq. and District Dhule
- 4) Smt. Kadarbai Fakira Aallor,
Age major, Occ. Household
- 5) Dilip Jaiwant Desale,
Age major, Occ. Agri.
- 6) Sau. Surekhabai Bhagwan Devare,
Age major, Occ. Household
- 7) Smt. Parvatabai Tukaram Bagale
Age major, Occ. Household
- 8) Sau. Janabai Dharmaraj Garde,
Age major, Occ. Household
- 9) Sau. Banubai Shenpadu Pawar,
Age major, Occ. Household
- 10) Manoj Govind Salve,
Age major, Occ. Agril.

- 11) Smt. Ashabai Gulab Gore,
Age major, Occ. Household
- 12) Sau. Yashoda Namdeo Choudhari
Age major, Occ. Household
- 13) Rajendra Dhudku Sonawane
Age major, Occ. Agri.
- 14) Dnyaneshwar Mahipat Gaikwad
Age major, Occ. Agri.

Respondents No.1 to 14
All R/o village Arvi,
Tq. and District Dhule

... RESPONDENTS

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Shri P.S. Dighe, Advocate for petitioner
Shri A.P. Basarkar, A.G.P. for respondents No.1 and 2.
Shri B.R. Warma, Advocate for respondents No.4 to 14

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CORAM: S. B. SHUKRE, J.

DATED: 27th February, 2017.

ORAL JUDGMENT :

1. Heard. Issue notice to respondents for final disposal returnable forthwith. Learned A.G.P. waives service for respondents No.1 and 2. Mr. Warma, learned counsel waives service for respondents No.4 to 14. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. It is seen from this Writ Petition, and as submitted by learned counsel for the petitioner, the main ground of the challenge to the No Confidence Motion was a question of law relating to these petitioners, respondent No.4 Smt. Kadarbai and respondent No.9 Smt. Banubai, arising from the provisions of Section 10(1)(a) of the Maharashtra Village Panchayats Act, 1958 and this question, though raised before the learned Collector, in the appeal filed before him, has not been considered by the learned Collector, Dhule.

3. In this case, admittedly respondents No.4 and 9, who are elected as Grampanchayat members from the reserved category, did not submit caste validity certificates as required under Section 10(A), within the time stipulated therein. Proviso to this Section lays down that, any failure to produce the caste validity certificate within the stipulated period of time, shall result in deemed termination of the membership as well as deemed disqualification of the concerned Member. Of course, there are divergent views taken by the High Court on the question of nature of this provision of law and, therefore, the effect of this Section was required to be considered by the appellate authority,

in the light of the law laid down in various judgments of the High Court. I find, from the impugned order dated 3/2/2017 that, there is no application of mind to the question of law raised by the petitioner. Since the Collector is the first appellate authority, it would be appropriate that this matter is remitted back to him for due consideration of the question of law involved in this petition, by quashing and setting aside the impugned order.

4. In this view of the matter, the Writ Petition is allowed. The impugned order dated 3/2/2017 is hereby quashed and set aside. The matter is remanded back to the learned Collector, Dhule for decision afresh in accordance with law on the Grampanchayat Dispute Application No.1/2017. Parties to appear before the learned collector, Dhule on 8th March 2017. The learned Collector shall decide the Dispute on or before 31st March 2017. Rule is made absolute in above terms.

5. At this juncture, it has been pointed out by learned counsel for respondents No.4 to 14 that there is also resignation letter submitted by the petitioner. If this is so, it is made clear that, observations made in this order as well as pendency of the Dispute Application before the learned Collector shall not come in

the way of consideration of the acceptance or otherwise of the resignation letter, in accordance with law.

(S. B. SHUKRE)
JUDGE

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