

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

WRIT PETITION NO. 3718 OF 2017

Sow. Kalpana Pradip Bhadane
Age: 48 years, Occu.: Agri. and Household,
R/o Gondur, Tq. & Dist. Dhule.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary
Rural Development Department,
Mantralaya, Fort, Mumbai.
2. The District Collector,
Dhule.
3. The Returning Officer and
Additional Tahsildar,
Dhule (City), Dhule.
4. Sakaharam Vithal Patil
Age: Major, Occu.: Agri.,
R/o Gondur, Tq. & Dist. Dhule.
5. Sow. Mangalabai Ramdas Patil
Age: Major, Occu.: Household,
R/o Gondur, Tq. & Dist. Dhule.
6. Chetan Ashok Patil
Age: Major, Occu.: Agri.,
R/o Gondur, Tq. & Dist. Dhule.
7. Sow. Rekha Pramod Patil
Age: Major, Occu.: Household,
R/o Gondur, Tq. & Dist. Dhule.
8. Sow. Radhabai Dnyaneshwar Bhil

Age: Major, Occu.: Household,
R/o Gondur, Tq. & Dist. Dhule.

9. Smt. Pitabai Shravan Bhil
Age: Major, Occu.: Household,
R/o Gondur, Tq. & Dist. Dhule.
10. Sow. Pradnya Ramkrushna Nerkar,
Age: Major, Occu.: Household,
R/o Gondur, Tq. & Dist. Dhule.
11. Chutu Ambar Bhil
Age: Major, Occu.: Agri.,
R/o Gondur, Tq. & Dist. Dhule.
12. Bhimrao Dhansingh Bhil
Age: Major, Occu.: Agri.,
R/o Gondur, Tq. & Dist. Dhule.
13. Rajendrar Daga Bhadane
Age: Major, Occu.: Agri.,
R/o Gondur, Tq. & Dist. Dhule.
14. Grampanchayat Gondur,
Tq. & Dist. Dhule
Through its Gramsevak.

..RESPONDENTS

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Mr. N.R. Bhavar, Advocate for petitioner.
Mr. S.K. Tambe, A.G.P. for Respondent Nos 1 to 3.

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CORAM : S.B. SHUKRE, J.
DATED : 20th MARCH, 2017

ORAL JUDGMENT :

1. Issue notice for final disposal to Respondent Nos. 1 to 3.
- Learned A.G.P. waives service of notice for these respondents. At present,

There is no need to issue notice to Respondent Nos.4 to 14, as the objection is only about not following the procedural requirement, as prescribed in Rule 5 of the Bombay Village Panchayats (Meetings) Rules, 1959 (in short as “Rules of 1959”) by respondent No.3.

2. Rule. Rule made returnable forthwith. Heard finally by the consent of both sides.

3. By no confidence motion passed against the petitioner an Up-Sarpanch, in the meeting held on 25th January, 2017 by the Group Gram Panchayat, Gondur by majority the petitioner incurred disqualification and therefore, she raised election dispute under Section 35(3-B) of the Maharashtra Gram Panchayat Act, 1958 before the Collector, Dhule. However, the appeal came to be dismissed by order passed on 08th March, 2017. The petitioner is aggrieved by this order as well as no confidence motion passed in the meeting on 25th January, 2017 and therefore has preferred this writ petition.

4. Only objection taken by the petitioner is that requirement of Rule 5(2) of the Rules of 1959 has not been adhered by Respondent No.3. As per this rule, one clear day notice of convening of special meeting for passing of no confidence motion should be given to all the members including Sarpanch and Upsarpanch. In the instance case, notice was issued on 23rd January, 2017 and

was received on 24th January, 2017. The special meeting in which no confidence motion was passed, was held on 25th January, 2017. It is clear that notice was received by the petitioner one clear day before holding of special meeting in terms of Rule 5(2) of the Rules of 1959.

5. It is the contention of learned Counsel for petitioner that the notice was received at about 04.00 p.m. on 24th January, 2017 and therefore, it does not state the requirement of one clear day. The learned A.G.P. submits that definition of 'clear day' does not indicate that the notice should be received at least before twenty four hours of the day holding of meeting. On perusal of the definition of "clear day" as given in Rule 2(a) of the Rules of 1959, the submission of learned A.G.P. appears to be correct. The expression of clear day has been defined the day exclusive of the day of issuance of notice or intimation, or of the day of meeting. This definition does not visualise a clear day in terms of clock hours but visualise a clear day in terms of only date as per the English calendar. Therefore, I do not see any merit in the said submission.

6. Thus, there is no merit in this petition and the same is liable to be dismissed with costs. Writ petition stands dismissed with costs. Rule is discharged.

(S.B. SHUKRE, J.)

SSD