

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6279 OF 2017
(Ashwini Prashant More Vs. The Additional Collector Ambajogai and
others)

Mr.S.J.Salunke, learned counsel for the petitioner.
Mr.M.B.Bharaswadkar, learned AGP for the respondents.

(CORAM : M.S.Sanklecha, J.)

DATE : 04/05/2017

PER COURT :

1. This petition challenges the order dated 29/03/2017 passed by the Additional Collector, Ambajogai, Dist.Beed u/s 35(B) of the Maharashtra Village Panchayats Act, 1958 (Act). The impugned order passed in appeal has upheld the 'No Confidence Motion' passed by the members of the Gram Panchayat, Talkhed, Tq.Majalgaon against the petitioner/Sarpanch.

2. The grievance of the petitioner is that the notice convening the meeting of the Panchayat to pass the no confidence resolution was not served upon her. This resulted in her absence at the meeting and consequent inability to address the members about the non-justification of non confidence against her.

3. The impugned order records the fact that the notice of the meeting convened on 13/12/2016 could not be served upon the petitioner as she was not available at her dwelling house on 09/12/2016 at 5.10 p.m when the notice sought to be served upon her. Therefore, it was served upon the member of the petitioner's family i.e. her brother in law, who at the relevant time, was residing with the petitioner. The acknowledgement of receipt was not only signed by the petitioner's brother in law but also a neighbourer namely Mr.Kamlakar Deshpande.

4. Mr.Salunke submits that non-service of notice upon the petitioner personally would make the meeting bad and consequently no confidence resolution passed, void in law. However, this submission is in the face of the Bombay Village Panchayats Sarpanch and Up-Sarpanch (No Confidence Motion) Rules, 1975, which have been framed under the Maharashtra Village Panchayats Act, 1958, specifically providing in Rule 2(b) that the service of notice upon any adult member of the family residing with the Sarpanch in case the Sarpanch is not to be found, would be sufficient service.

5. At this stage, Mr.Salunke submits that her brother in law is not staying with her and therefore service upon him is bad. In support,

the petitioner has placed reliance upon the extract of the ration card. This ration card is issued on 11/01/2017. Therefore it does not establish the actual state of affairs when the notice was served on 09/12/2016.

6. In the above view, no fault can be found with the impugned order. Therefore it does not warrant any interference.

7. Petition is dismissed. No order as to costs.

(M.S.Sanklecha, J.)