

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10278 of 2017
(Ujwala Pravin Patil Vs. The State of Maharashtra and others)

Mr.L.S.Mahajan, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for the respondent / State.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 18/08/2017

PER COURT :

1. The petitioner is aggrieved by the passing of the 'No Confidence Motion' on 27/01/2017 and the order of the Additional Collector dated 29/04/2017 rejecting the gram panchayat dispute filed by the petitioner.

2. Mr.Mahajan, learned Advocate for the petitioner, submits that the proceedings recorded do not indicate whether the Tahsildar was the chair person of the meeting. Section 35 of the Maharashtra Village Panchayat Act mandates the Tahsildar to be the chair person. The proceeding book has been manipulated by the Tahsildar in connivance with the other members of the village panchayat. Rule 17 of the Bombay Village Panchayat Meeting Rules, 1959 is violated as there was no proposer or seconder to the motion moved by the members. Considering these factors, the Additional Collector,

dealing with the gram panchayat dispute, should have allowed the proceedings and should have set aside the resolution passing the 'No Confidence Motion'.

3. I have considered the submissions of the learned Advocate for the petitioner and the learned AGP on behalf of respondent Nos. 1, 2 and 3.

4. There is no dispute that the requisition motion moved on 23/01/2017 was signed by the members of the Village Panchayat and served upon the Tahsildar. On the same day, the Tahsildar issued a notice for convening the special meeting on 27/01/2017.

5. The copy of the proceeding book, in which the minutes of the meeting dated 27/01/2017 were recorded, indicates that the Tahsildar was the chair person and he has written the proceedings. 9 members of the gram panchayat were present. Whoever made a request to speak was permitted to speak in the said meeting. The petitioner/Sarpanch also spoke in the meeting and tried to convince the members against the motion. Eventually, the motion was passed by 3/4th majority as 8 members out of the 9 voted in favour of the no confidence motion. The law mandates that if the post of Sarpanch is

occupied by a lady, the no confidence motion has to be passed by at least 3/4th majority.

6. Considering the above, the only issue that needs consideration is as to whether there was a formal proposer or seconder of the motion before the Tahsildar in the special meeting. The learned Full Bench of this Court, in the matter of Tatyasaheb Ramchandra Kale Versus Navnath Tukaram Kakde and others [2014(6) Mh.L.J. 804], has concluded that Rule 17 of the Meeting Rules, 1959 is not mandatory and there is no requirement for a formal proposer and seconder to move the motion. Being a special meeting called only for the purpose of considering the no confidence motion, lack of a proposer or seconder would not affect the business transacted in such a special meeting.

7. Considering the above, I do not find any merit in this petition and the same is therefore dismissed.

(Ravindra V.Ghuge, J.)