

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

WRIT PETITION NO. 11273 OF 2017

VIJAY NATHUBA BANGAR
VERSUS
THE COLLECTOR AHMEDNAGAR AND OTHERS

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Advocate for Petitioner : Shri V.D.Hon, Senior Advocate a/w Shri Hon
Ashwin V.

AGP for Respondents 1 and 2 / State : Shri N.T.Bhagat.

Advocate for Respondents 3 to 10 : Shri S.T.Shelke.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 15th September, 2017

Per Court:

1 The Petitioner, who is the Sarpanch of Gram Panchayat, Jamgaon in Parner Taluka, District Ahmednagar, is aggrieved by the business transacted in the special meeting held on 17.06.2017 by which the no-confidence motion is said to have been passed by a vote count of 8:3 from amongst 11 members. The Petitioner is also aggrieved by the order of the District Collector, Ahmednagar dated 07.08.2017 by which the appeal preferred by the Petitioner under Section 35(3-B) of the Maharashtra Village Panchayats Act, has been dismissed.

2 I have considered the strenuous submissions of Shri Hon, learned Senior Advocate on behalf of the Petitioner, the learned AGP on behalf of Respondent Nos.1 and 2 and Shri Shelke, learned Advocate

appearing on behalf of Respondent Nos.3 to 10, who are the elected members of the Gram Panchayat.

3 Shri Hon, learned Senior Advocate, has raised the following grounds:-

- (a) The Petitioner belongs to "Kunbi" caste and therefore, falls under the Other Backward Class (OBC).
- (b) He has been elected as the Sarpanch of Gram Panchayat, Jamgaon. His term was to expire in 2018.
- (c) A requisition motion was moved on 12.06.2017 by eight members out of 11 members, which was served upon the Tahasildar requesting for a special meeting to table the no-confidence motion against the Petitioner.
- (d) On 12.06.2017, the Tahasildar issued the notice for calling a special meeting on 17.06.2017.
- (e) In the meeting conducted on 17.06.2017, the Chairperson has resorted to interpolation in the recording of minutes of the business transacted and when the vote count was 7:4, it was recorded as 8:3 and the motion was declared to have been passed.
- (f) One member Smt.Surekha Kailas Shinde has specifically mentioned and which is recorded in the minutes book that she desires to vote against the motion of no-confidence. She is

the Deputy Sarpanch and supports the Petitioner. If her vote is taken into account, the motion can be said to have fetched seven votes in favour and four votes in opposition. Thus, the requirement of 2/3rd majority as is required under Section 35(3) was not fulfilled and the motion would stand rejected.

- (g) The District Collector has failed to consider the above aspects and has mechanically passed the impugned order on 07.08.2017 thereby, rejecting the Gram Panchayat Dispute Application No.28/2017 filed by the Petitioner.

4 The learned AGP has supported the impugned order.

5 Shri Shelke, learned Advocate, submits as under:-

- (a) The requisition motion dated 12.06.2017 contained eight names of elected members with eight signatures indicating the desire of eight persons, who have moved the motion.
- (b) Though Smt.Surekha is the Deputy Sarpanch, she herself has signed the motion and in the special meeting on 17.06.2017, she has not contended that her name and signature is forged or that it was obtained by playing mischief.
- (c) Though the minutes indicate that she has purportedly stated that she desires to vote against the motion, when the Chairperson called upon the members to raise their hands in

favour of the motion, she has also raised her hand and the Chairperson has calculated the votes by specifically recording the names of the persons in favour of the motion as well as has obtained their signatures in front of their names.

- (d) The above aspects would indicate that Smt.Surekha was all along opposing the Sarpanch and in favour of the motion.
- (e) Smt.Surekha has also filed an affidavit before the District Collector in the dispute filed by the Petitioner and has specifically asserted that the Roznama/ minutes mentioning that she wants to vote against the motion, has been incorrectly recorded.
- (f) The District Collector has rightly appreciated all the factors and has delivered the impugned order, which cannot be termed as being perverse or erroneous.

6 I have considered the submissions of the learned Advocates and have gone through the minutes as are actually recorded in handwriting of the Chairperson of the special meeting.

7 Section 35(3) requires the majority of 2/3rd vote count to pass a motion of no-confidence and 3/4th majority in the event of a Woman Sarpanch elected to the post of a Sarpanch being reserved for a woman.

8 Besides the points canvassed as have been recorded herein above, no other grievance has been put forth by the Petitioner.

9 I do find from the minutes that Smt.Surekha has stated that she desires to vote against the motion of no-confidence. However, in the requisition motion dated 12.06.2017, she has signed in front of her name. She has not stated in the special meeting when she rose to speak that her signature has been mischievously or fraudulently obtained on the requisition motion dated 12.06.2017. So also, at the end of the meeting, the Chairperson has taken a vote count by the show of hands and after recording the same in the minutes book, he has noted the names of the members who have voted in favour of the motion and has also obtained their signatures. Smt.Surekha has signed on the said noting in front of her name. She has also filed an affidavit before the District Collector stating that the minutes erroneously indicate that she was against the motion.

10 Considering the above factors, I do not find that the vote cast by Smt.Surekha could be held to be an erroneous recording of the business transacted in the meeting. The motion is passed by the vote count of 8:3 which fulfills the requirement of 2/3rd majority.

11 This Writ Petition, being devoid of merit is, therefore, dismissed.