

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION STAMP NO.1411 OF 2017

Mrs. Sunita Ravindra Thakare : Petitioner.
versus
The Additional District Collector
Malegaon, District Nashik and ors. : Respondents.

Mr. Anilkumar K Patil for the Petitioner.
Mr. S L Babar AGP for the Respondent Nos.1, 2 and 20.

CORAM : R. M. SAVANT, J.
DATE : 18th January 2017

P.C.

1 The order dated 07/01/2017 passed by the Additional Collector,
Malegaon rejecting the Dispute Application filed by the Petitioner being No.45
of 2016 is taken exception to by way of the above Petition.

2 The Petitioner was elected as Sarpanch of the Grampanchayat Thengoda, Tal. Baglan, Dist. Nashik. The said Grampanchayat comprises of about 17 members. A requisition was made by 13 members of the Grampanchayat to the Tahsildar for calling a special meeting of the said Grampanchayat for passing a Motion of No Confidence against the Petitioner. The Tahsildar acting upon the said requisition convened a meeting on 23/08/2016 at 11.00 am. In the said meeting a resolution of Motion of No Confidence was moved against the Petitioner which was passed by 13:3 i.e. 13 members in favour of the Motion and 3 members against it.

3 The Petitioner aggrieved by the said resolution passed by the Grampanchayat in the said meeting dated 23/08/2016 filed a Dispute Application under Section 35(3) of the Maharashtra Village Panchayat Act challenging the said resolution. The challenge was inter alia on the ground that at the appointed time i.e. at 11.00 am there was no quorum and the meeting was held thereafter at about 12.05 pm and concluded at about 01.05 pm. however it has been wrongly recorded that the meeting has commenced at 11.05 am and concluded thereafter. It was the case of the Petitioner that on account of the wrong recording the proceedings in respect of No Confidence Motion are vitiated. The second ground was that though the Petitioner had requested for voting by secret ballot, the said request was not acceded to and voting was carried out by show of hands. The third ground was that once of the members who was voted in favour of the resolution did not produce his caste validity certificate and therefore he was not entitled to vote. The resolution passed was therefore challenged on the said grounds.

4 The said Dispute Application was replied to on behalf of the members who had moved the said Motion of No Confidence.

5 The Additional Collector, as indicated above, has by the impugned order dated 07/01/2017 dismissed the Dispute Application. The Additional

Collector has rejected the grounds which have been urged on behalf of the Petitioner by holding that minor technical flaws would not vitiate the resolution which has been passed by majority of 13:3. which is the 3/4th majority as required by the Act in respect of a lady Sarpanch

6 The learned counsel appearing on behalf of the Petitioner at the outset fairly states that the Petitioner is not pressing the third ground of a member having not produced his caste validity certificate and therefore was not entitled to vote. However, the learned counsel for the Petitioner sought to reiterate the two other grounds which were urged before the Additional Collector.

7 In my view, the Additional Collector, having regard to the fact that the democratic principle has to be given weightage to namely that a member who has lost the confidence of the house cannot be permitted to continue, has rightly not countenanced the said two grounds which have been urged on behalf of the Petitioner. The election to the post of Sarpanch is to be held on 20/01/2017. In my view, therefore, no case for interference is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]