

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7785 OF 2016**

Yuvraj Sahebrao Wagh & Ors.

..Petitioners

Vs.

Smt. Ranjana Ashok Wagh & Ors

..Respondents

**Mr. Gaurang C. Jhaveri i/b Mr. M.N. Sandhyanshiv for the Petitioners
None for the Respondent No.1**

Mr. S. D. Rayrikar AGP for the Respondent No.3

**CORAM : R. M. SAVANT, J.
DATE : 19th JANUARY, 2017**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 29-3-2016 passed by the Additional Collector, Malegaon, District -Nashik, by which order, the Dispute Application filed by the Respondent No.1 herein came to be allowed and resultantly the order of the Tahsildar Malegaon dated 21-10-2015 approving the resolution of no confidence passed against the Respondent No.1, came to be set aside.

2 The Respondent No.1 was elected as Sarpanch of Tembhe Grampanchayat, Taluka Baglan, District- Nashik. The motion of no confidence came to be moved against the Respondent No.1 on 21-10-2105. The motion of no confidence was passed by a majority of 5:2 in terms of Section 35(3) of the Bombay Village Panchayat Act (for short the said Act), the resolution to be passed against a woman is to be passed by not less than 3/4th majority, the

same in the instant case would come to 5.25. The resolution was therefore required to be passed by the said majority. The Tahsildar notwithstanding the said requirement approved the resolution by the process of rounding up as he was of the view that the requirement of majority being not less than 3/4th which in the instant case would be 5:2 and since the resolution was passed by 5 members, the same had to be approved.

3 The Respondent No.1 aggrieved by the approval of the resolution by the Tahsildar filed the Dispute Application under Section 35(4) of the said Act. The Additional Collector who adjudicated upon the dispute found fault with the reasoning of the Tahsildar in the matter of rounding up the figure to 5. The Additional Collector was of the view that since the requirement was not less than 3/4th majority, there would have to be a strict compliance and therefore there cannot be any rounding up disregarding (.25) which was the requirement in the instant case. The Additional Collector accordingly set aside the order dated 21-10-2015 passed by the Tahsildar accepting the said resolution and accordingly allowed the said Dispute Application.

4 The Learned AGP draws this courts attention to the Judgment of a Learned Single Judge of this Court in the matter of **Tanaji Bhauso Mane & Ors. Vs. Ushatal Balkrushna Mahe & Ors.**¹ The said case also concerned a woman sarpanch. A Learned Single Judge of this court held that a fraction

¹ 2013(6) Mh.L.J. 467

could not be ignored as then it would amount to the resolution being passed by less than the requirement prescribed by the Act. In view of the said judgment of the Learned Single Judge in Tanaji Bhauso Mane's case, no fault can be found with the order passed by the Additional Collector. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]