

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.381 of 2018
(Sita w/o Nana Bobade Vs. The Collector and others)

Mr.N.V.Gaware, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for respondent No.1.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 10/01/2018

PER COURT :

1. The petitioner, who is the elected Sarpanch of the village Pimpri Kolandar, Tal.Shrigonda, Dist. Ahmednagar, is aggrieved by the order dated 27/12/2017 passed by respondent No.1/Collector, by which the Gram Panchayat dispute No.54/2017 filed by the petitioner for challenging the business transacted in the special meeting dated 14/11/2017 and the no confidence motion, has been rejected.

2. The learned Advocate for the petitioner has strenuously criticized the impugned order on the following grounds :-

- [a] The order of the Collector can now be assailed directly before this Court and there is no other remedy of appeal or revision.
- [b] A requisition was moved by 6 elected members out of the 9 on 07/11/2017 for introducing the 'No Confidence Motion' against

the petitioner.

- [c] Since the special meeting as is required u/s 35 to be convened within 7 days, the Tahsildar has convened the said meeting on 14/11/2017 which would amount to conducting a meeting on the 8th day from the date of the requisition motion and which is in contravention of Section 35(2) of the Act and Rule 2 of the Maharashtra Village Panchayat (No confidence Motion) Rules, 1975.
- [d] The signature of one member Smt. Mangal Balu Bhondve differs in the requisition motion and the minutes of the meeting. If the signature does not match, it would create a doubt as regards the desire of Smt. Bhondve in participating in the said meeting and as such her vote has to be discarded.
- [e] If the vote of Smt. Bhondve is discounted, the no confidence motion, which is required to be passed by 2/3rd majority considering that the petitioner is a female Sarpanch of the said village, fails.

3. The learned AGP appearing on behalf of the respondent/Collector has drawn my attention to the proceedings which have been placed on record in the petition paper book and the provisions under the Act and the Rules.

4. In so far as the first contention of the petitioner is concerned, the issue of computing 7 days for calling a special meeting within 7 days has been interpreted by the learned Division Bench of this Court in Seema Ashok Kamble vs The Collector And Ors [2008(3) Mh.L.J. 781]. It is concluded that the date on which the requisition is presented, has to be excluded and the computing of 7 days would commence from the next date. In the instant case, the meeting has been convened on 14/11/2017 and as such the said meeting can safely be said to have been conducted on the 7th day which satisfies the requirement of law.

5. There are 9 elected members in the said Gram Panchayat who are eligible to participate in the meeting and vote. The petitioner as well as 2 persons belonging to her group chose to remain absent in the meeting. 6 members attended the meeting which was chaired by the Tahsildar. All the 6 have voted in favour of the motion. The said motion was therefore passed by 6 : 0 vote count. 2/3rd majority was therefore achieved.

6. In so far as the contention of the petitioner that Smt. Bhondve cannot be permitted to participate in the meeting is concerned, the

said argument is without any merit for the reason that no elected member can be prevented from participating in the meeting except in the event of a legal exclusion or bar. Smt. Bhondve is said to have signed a requisition motion by using her initials and surname as M.B. Bhondve (Marathi मं. बा. भोंडवे) . In the minutes of the meeting, she has signed as Mangal Balu Bhondve. She has neither claimed that her signature has been forged, nor she has filed any affidavit before the District Collector contending that she had never signed either on the motion or in the meeting. The fact remains that she participated in the meeting physically, has signed in the presence of the chair person and has also voted physically against the petitioner.

7. Considering the above, I do not find that the impugned order of the District Collector could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)