

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1428 OF 2018
(Gautam s/o Dhonduji Bhise and others Vs. The State of
Maharashtra and others)

Mr.S.K.Savangikar, Advocate for the petitioners.
Mr.V.S.Badakh, AGP for respondents.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 27/02/2018

PER COURT :

1. Learned Advocate for the petitioners has strenuously assailed the order dated 16/01/2018 passed by the Collector, Hingoli thereby allowing the appeal filed by respondent No.5 /Sarpanch on the ground that the discussion on the reasons mentioned for moving the motion of no-confidence, has not been properly documented.

2. It is informed that the Gram Panchayat, Kanhergaon Naka has a maximum 13 representatives in the Village Panchayat. Two members resigned, leaving 11 members. The special meeting convened on 28/11/2017 had 11 members present and eligible to vote. The "No Confidence Motion" was passed by 8 votes in favour and 3 against the motion.

3. The 3rd proviso to Section 35(3) introduced by the

Maharashtra Act No.16 of 2012 w.e.f. 02/10/2012 in the Maharashtra Village Panchayats Act requires that where a Sarpanch is a woman elected to the said post reserved for women, a motion of "No Confidence" shall have to be carried with not less than 3/4th of the total number of members who are for the time being entitled to sit and vote at any meeting of the Panchayat. Obviously, there were 11 members who were entitled to sit and vote and the motion was passed by 2/3rd majority.

4. Considering the above, without going into the challenge of the legality and the propriety of the reasons assigned by the District Collector in support of the impugned order dated 16/01/2018, this petition can be disposed of as no purpose would be served in taking up the challenge put forth by the petitioners. Even if the impugned order is set aside and the business transacted in the special meeting is sustained, the motion passed by 2/3 majority would not be sustainable in the light of the 3rd proviso to Section 35(3) of the Maharashtra Village Panchayats Act.

5. This petition is, therefore, disposed of.

(RAVINDRA V. GHUGE, J.)