

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2489 OF 2018
(Vishnu Namdev Itape Vs. The State of Maharashtra and others)

Mr.V.S.Undre, Advocate for the petitioner.
Mr.S.R.Yadav-Lonikar, AGP for respondent Nos. 1 and 2.
Mr.G.J.Kore, Advocate for respondent No.6.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 28/03/2018

PER COURT :

1. The petitioner is aggrieved by the order of the District Collector dated 02/02/2018 as well as the business transacted in the special meeting held on 06/11/2017 wherein the no confidence motion against the petitioner Sarpanch was passed by 6 votes against none.

2. The learned Advocate for the petitioner has strenuously criticized the impugned orders. His contentions can be summarized as under :-

[a] The preparation of the number of copies of the requisition motion as prescribed under Rule 2(2) of the the Bombay Village Panchayats Sarpanch and Up-Sarpanch (No Confidence Motion) Rules, 1975, is not followed.

[b] None of the six members present in the voting have discussed the motion.

[c] The special meeting was convened on the 8th day thereby

violating the mandate of convening such a meeting within 7 days.

3. Learned AGP on behalf of respondent Nos. 1 and 2 and the learned Advocate on behalf of respondent No.6 Caveator have supported the order.

4. In so far as Rule 2(2) is concerned, it is to be left to the Tahsildar to consider how many copies of the requisition motion have been supplied to him. In any case, such a rule would be directory in nature and submission of lesser number of copies to the Tahsildar, would not be fatal to the business transacted in the special meeting that was convened for considering the no confidence motion.

5. This Court has already settled the issue that the members present in the special meeting would have a right to speak on the subject of no confidence, but would not be forced or compelled to speak. The Village Panchayat of Asu, Tal.Paranda, Dis.Osmanabad has a maximum of 9 members. The petitioner is the Sarpanch. The petitioner and his two supporters remained absent in the special meeting. All the 6 members were united and the minutes of the meeting recorded indicates that the said members agreed to resort to

raising of hands in the voting process. The motion was passed by 6 votes against NIL. The proposer of the motion presented the no confidence motion and another member supported the motion.

6. The minutes do not indicate that any member desired to speak on the charges levelled against the Sarpanch. As the Sarpanch and his two supporters were absent, there was nobody to oppose the motion.

7. In so far as computing of 7 days pursuant to the submission of the requisition motion to the Tahsildar is concerned, this Court has settled the Law by concluding that the day on which the requisition motion is tendered to the Tahsildar, has to be excluded and the next day appearing after 24 hours, would be the first day. Consequentially, the special meeting was rightly convened by the Tahsildar on the 7th day on 06/11/2017.

8. Considering the above, this petition is devoid of merit and is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)