

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

4 WRIT PETITION NO. 4346 OF 2018

SHANTABAI BAPURAO BOBADE
VERSUS
THE DISTRICT COLLECTOR AURANGABAD AND
OTHERS

...
Advocate for Petitioner : Mr.Gore Ravindra Vitthal
AGP for Respondents/State: Mr.S.K. Tambe.
Advocate for Respondent 4 : Mr.Bagal Vishal A.

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CORAM : V.L. ACHLIYA, J.

Dated: MAY 02, 2018

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Petitioner herein has challenged the order dated 12.4.2018 passed by the District Collector, Aurangabad. By the impugned order, the learned District Collector, Aurangabad dismissed the dispute filed under section 35(3)(b) of the Maharashtra Village Panchayats Act, 1959 in respect of 'no confidence motion ' passed against the petitioner in a special meeting of village Panchayat Wahegaon, Tq. Paithan, Dist. Aurangabad convened on 17.2.2018.

2. Heard learned counsel for the petitioner,

respondent No.4 - caveator and learned AGP representing respondent No.1. Perused the impugned order.

3. On due consideration of submissions advanced in the light of order passed, I am of the view that the petition filed is devoid of merits and substance therein. In short, it is contention of petitioner that the resolution dated 17.2.2018 passed against the petitioner is bad in law for the reason that there was no proposer and seconder to that resolution. In this context, the learned counsel for respondent No.4 has invited attention to the full bench decision of this Court in the case of **Shri Tatyasaheb Ramchandra Kale vs Shri Navnath Tukaram Kakde and others** dated 12.9.2014 delivered in Letters Patent Appeal No.312 of 2013 in Writ Petition No.6967 of 2012 wherein, the full bench of this Court has categorically held that Rule 17 of the Bombay Village Panchayats (Meeting) Rules, 1959 is directory. For want of proposer and seconder to the notice of motion, the no confidence motion passed is not sufficient to invalidate the motion and absence of formal proposer and seconder to no confidence motion would not render such resolution as invalid and bad in law.

4. The learned counsel for the petitioner has further contended that no confidence motion

passed is bad in law for the reason the notice of meeting was not served upon the petitioner. In counter to this submission the, learned counsel for the respondent No.4 submits that in the impugned order itself it is specifically observed that the notice of meeting dated 17.2.2018 was served upon the husband of the petitioner and the learned Collector has thoroughly examined this aspect, while deciding the dispute vide order dated 12.4.2018.

5. In the impugned order, the learned District Collector has dealt the contention and specifically observed that he has perused the record and proceedings and also considered the affidavit filed by the concerned Kotwal Shri Anil Suryabhan Misal dated 6.4.2018, wherein he has stated on oath that he had served notice of the special meeting to husband of petitioner namely, Bapurao Dagadu Bobade on 12.2.2018. As provided under Rule 2-B of the Bombay Village Panchayats Sarpanch and Upa-Sarpanch (No Confidence Motion) Rules 1975, if the Sarpanch or the Upa-Sarpanch against whom no confidence motion is brought and to whom the notice is to be served of such no confidence motion, it can be served upon any adult member of family of such Sarpanch or Upa-Sarpanch, as the case may be, if at the time of delivery or tendering of notice, such Sarpanch or Upa-Sarpanch is not found at his house. Thus,

view of finding recorded by the Collector based upon scrutiny of record that the notice was duly served on the husband of the petitioner, the contention raised in this behalf by petitioner cannot be accepted.

6. In absence of any perversity or arbitrariness or jurisdictional error on the part of respondent No.1, the order calls for no interference in exercise of writ jurisdiction under Article 227 of the Constitution of India. I am, therefore, not inclined to entertain the petition. Accordingly, the petition is dismissed.

(V.L. ACHLIYA,J)

kadam/