

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 7489 of 2018

Sarubai w/o Dashrath Mali
age 70 yers occupation household (Sarpanch)
R/o Ajang Taluka and District Dhule.

...Petitioners

VERSUS

1. The State of Maharashtra
Through The Collector, Dhule.
2. The tahsildar,
Dhule Taluka and District Dhule
3. Ramlal S/o Atmaram Ahire, age major
4. Vimal Atmaram Ahire, age major
5. Bhimabai Pundlik Bhadane, age major
6. Suresh S/o Raghunath Patil, age major
7. Vandana Atmaram Randive, age major
8. Dinesh S/o Babulal Sonovane, age major
9. Dashrath Tarachand Mali, age major
10. Sunanda Raghunath Mali, age major
11. Durga Raghunath Kedar, age major
12. Akka Bapu More, age major

All agriculturists except No. 5, 7, 10,11,13
who are household and all members, by occupation
and all R/o Ajang Taluka and District Dhule

..Respondents

Mr Paresh B. Patil, Advocate for petitioner.

Mr P.N. Kutti, Asstt. Govt. Pleader for respondents No. 1 & 2

Mr Pawan B. Pawar, Advocate for respondents No. 3 to 12

CORAM : SUNIL P. DESHMUKH, J.

DATE : 25th July, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for the parties finally by consent.

2. The writ petition has been moved against no confidence motion passed on 15th November, 2017 by majority i.e. by ten members against only the petitioner, who is alone. Appeal preferred by petitioner therefrom pursuant to Section 35(3B) of the Maharashtra Village Panchayat Act came to be dismissed by respondent No.1.

3. Learned counsel for petitioner contends that no confidence motion had been purportedly moved by respondents No. 3 to 12 by making a requisition on 9th November, 2017 for holding meeting to pass no confidence motion against petitioner, who had been then occupying post of *Sarpanch*. Pursuant to the same, meeting had been convened on 15th November, 2017 and no confidence motion came to be passed. Learned counsel for the petitioner contends that the notice, which had been issued pursuant to the requisition, had not been in proper form and, as such, it would not be a case wherein it can be said that it is a notice in law as required. He, therefore, submits that while

initiation itself is defective, all the the subsequent proceedings have been rendered ineffective and in-operative. He therefore, contends that this relevant aspect has been overlooked by the Collector while dismissing appeal filed by present petitioner.

4. Learned counsel for respondents No. 3 to 12 and learned Assistant Government Pleader for respondents No.1 & 2 submit that though it is submission on behalf of petitioner that no notice in requisite form has been issued, the same is not proper. Due procedure had been followed while issuing notice upon the requisition. It is being submitted that petitioner is silent in respect of in which form notice was expected to be issued. No record has been placed in support of the contentions. It is not the case that the petitioner had not been served with notice of meeting for no confidence motion. Purpose underlying notice had thus got satisfied. It is undisputed position that no confidence motion against petitioner had been passed by majority and almost all the *Gram-panchayat* members had voted in favour of no confidence motion. The petitioner had an opportunity to address the meeting. As such, there is no point in relying on technicalities. It is further submitted by learned counsel that the notice had been issued as per the procedure and in the form required.

5. Perusal of the decision by the authority dated 19th April, 2018 depicts that pursuant to requisition dated 9th November, 2017 by issuing notice to members concerned, meeting had been convened on 15th November, 2017 and the motion of no confidence had been passed by ten members against one. It is not a case where petitioner had not at all received any notice. The authority has referred to that as a matter of fact, motion had been passed by more than 3/4th majority. No particular prejudice can be said to have been caused with reference to contention of petitioner.

6. Having regard to aforesaid, it is not a case that petitioner had no opportunity to participate in the motion. There is no other reason being putforth showing any prejudice being caused to the petitioner. Petition, thus, does not appear to carry any substance.

7. Writ petition stands dismissed.

(SUNIL P. DESHMUKH)
JUDGE.