

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

WRIT PETITION NO. 5437 of 2018

Popat S/o Manikrao Gaikwad,
age 50 years occupation social worker
R/o Jategaon Taluka Jamkhed District Ahmednagar

...Petitioner

VERSUS

1. The District Collector, Ahmednagar.
2. Grampanchayat, Jategaon
Taluka Jamkhed Dist. Ahmednagar
Through its Village Officer (Gramsevak)
3. The Tahsildar, Jamkhed, District Ahmednagar.
4. Dipali Pandurang Garje, age major
5. Ashabai Devidas Gaikwad, age major
6. Raviraj Kamlakar Gaikwad, age major
7. Bhausahab Bappasaheb Gaikwad, age major
8. Kaushalya Bhausahab Gaikwad, age major
9. Pooja Bapurao Pol, age major
10. Rekha Santosh Gaikwad, age major

Nos. 4 to 10 agriculturists by pccupation and
R/o Jategaon taluka Jamkhed Dist. Ahmednaga.

...Respondents

Mr Angad L. Kanade, Advocate for petitioner.

Mr S.N. Kendre , Asstt. Govt. Pleader for respondents No.1 to 3

Mr Shaikh Ashraf Patel, Advocate, holding for Mr A.P. Avhad,
Advocate for respondent No.4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 8th June, 2018

JUDGMENT :

Heard learned Counsel for the parties. Petitioner purports to take exception to order passed in Grampanchayat Appeal bearing No 9 of 2018 confirming the No Confidence Motion passed against him dated 16th April 2018 by the Tahsildar, Jamkhed.

2. Learned Counsel Mr Kanade for the petitioner submits that the meeting called for passing 'No Confidence Motion' against him upon a requisition therefor dated 10th April 2018 cannot be said to have been convened within 7 days as ordained in statutory provision. He submits that the legislature has carefully referred to that the meeting has to be scheduled within seven days and since meeting being held on 16th April 2018 after requisition has been made on 10th April 2018, it is not within seven days. He goes on to submit that the post of Sarpanch in Grampanchayat of village Jategaon Taluka Jamkhed has been reserved for a candidate belonging to Other Backward Class and petitioner is the only elected candidate from the category of Other Backward Class in the Grampanchayat. He, as such, purports to submit that since

there is no other candidate from the category of Other Backward Class the meeting cannot be convened for election to the post of Sarpanch, which is now scheduled to be held on 11th June 2018. His next leg of submission is that certain allegations are made in the requisition and meeting of 'No Confidence Motion' had been called on those allegations, since the allegations carry no substance and veracity of the same has not been inquired into, 'No Confidence Motion' cannot be said to have been legitimately passed.

3. Learned Counsel appearing for respondents, however, submits that user of word "convene meeting" does not necessarily mean that the meeting should be held within that period. The meeting of 'No Confidence Motion' on scheduled date had been legally convened and held and he submits that in any case the meeting in the present case has been called and held within seven days. As such, the petition does not carry substance. He submits that majority of the members have cast their votes against the petitioner and 'No Confidence Motion' has been passed by more than majority of 2/3rd votes. He further submits that contention that one of the members had raised hand by mistake in the meeting of 'No Confidence Motion' also does not affect required majority for passing 'No Confidence Motion' against the petitioner.

He submits that in the circumstances, the petitioner has lost confidence of more than 2/3rd majority. Veracity or otherwise in the allegations is not a germane for consideration. It is significant to note that 'No Confidence Motion' against the petitioner has been passed.

Having regard to the factual position that the meeting had been held on 16th April 2018 after requisition dated 10th April 2018, it appears that the stipulation for holding meeting for 'No Confidence Motion' appears to have been adhered to. The contention on behalf of the petitioner about holding the same within seven days, appears to have been complied with. It further appears that 'No Confidence Motion' has been passed by requisite 2/3rd majority in meeting dated 16th April 2018. The petitioner has lost the confidence of the members of the Grampanchayat. Further, contention of the petitioner that he being a member from the category of Other Backward Class and due to political rivalry, respondents have brought this 'No Confidence Motion' against him, which was reserved for the candidate of Other Backward Class, may not assist the petitioner. Writ Petition is therefore rejected.

(SUNIL P. DESHMUKH)
JUDGE.