

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10032 OF 2018

AKSHAYKUMAR UTTAMLAL JAISWAL
VERSUS
THE COLLECTOR JALGAON AND OTHERS

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Advocate for Petitioner : Shri Sakolkar Vijay G.
AGP for Respondents 1 & 2 : Shri Patil K.S.
Advocate for Respondent 3 : Shri Patil Paresh B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 08, 2018

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PER COURT :-

1 The petitioner who is a former Up-sarpanch of Gram Panchayat Lohara, Taluka Pachora, District Jalgaon is aggrieved by the passing of the no-confidence motion on 31.5.2018 and is also aggrieved by the order of the District Collector, Jalgaon dated 10.8.2018, rejecting his Gram Panchayat Dispute Application No.45 of 2018.

2 The learned counsel for the petitioner has strenuously criticized the impugned order as well as the business transacted in the special meeting convened for discussing the no confidence motion on 31.5.2018.

3 Grievance is that there are 17 elected members and though one member died before the special meeting, the post was not declared vacant and hence, the business transacted in the special meeting is a nullity.

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4 The second grievance voiced is that the allegations made against the petitioner pertain to the nature of functions of the Sarpanch and hence, the motion is carried by 11 votes in favour and 5 against the motion on baseless allegations. It is, therefore, submitted that when the functions ascribed to the Sarpanch under Section 38 of the Maharashtra Village Panchayat Act (the said Act) cannot be the basis of allegations against the Upsarpanch, the no confidence motion deserves to be set aside.

5 I do not find any provision under the said Act, which would mandate allegations to be levelled against a person, if the no confidence motion is to be moved. Learned counsel for the petitioner has contended that unless there is a specific allegation against the Sarpanch or Up-sarpanch and unless that allegation is proved, the no-confidence motion can not be put to vote. He is, however, unable to point out any provision from the Act or the Rules or from any judicial pronouncement that no confidence moved simplicitor without any allegations, can never be entertained by the Tahsildar and such a motion is rendered unsustainable.

6 Notwithstanding the above, the allegations against the petitioner are that he does not take the elected members into confidence, is an

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arrogant person and foists his view upon the other members and he neglects the cause of social service in the village panchayat.

7 I find that out of the 16 members present at voting, 11 have voted in favour of the motion and the petitioner has been ousted.

8 The petitioner contends that though one member died before the special meeting and he could not have obviously attended the meeting, the record should state that there are 17 members and only 11 have voted in favour of the motion out of 17, and hence the motion cannot be said to be carried as 2/3rd majority.

9 I do not find that this submission can be entertained in view of the fact that it is admitted by one and all that one member had died prior to the meeting and as such, whether there was a declaration that the post had fallen vacant or not, the said dead person could have never attended the meeting.

10 In view of the above, this petition, being devoid of merits is dismissed.

(RAVINDRA V. GHUGE, J.)

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akl/d

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