

mujahed

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1251 OF 2018

Shri. Pralhad Hari Pagare

...Petitioner

V/s.

Grampanchayat Nandurmadhyameshwar
& Ors

...Respondents

Mr. Yuvraj D. Patil for the Petitioner.

Mr. S.D. Rayrikar, AGP for State/Respondent Nos. 14 to 16.

Mr. Tushar N. sonawane for Respondent Nos. 1 to 13.

CORAM : R.D. DHANUKA, J.

DATE : 13TH FEBRUARY, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 01st January, 2018 passed by the Learned Collector Nashik in Gram Panchayat Case No. 65 of 2017 along with order of no confidence motion dated 18th September, 2017.

2. The petitioner is an elected member of the Gram Panchayat Nandurmadhyameshwar, Niphad and was subsequently elected as Sarpanch of the said village Gram Panchayat.

3. There are 13 members in the said Gram Panchayat who moved a no confidence motion against the petitioner. A notice was issued by the learned Tahsildar, Niphad for the meeting dated 18th

September, 2017 to the petitioner and other members of the said Gram Panchayat. Four allegations were made against the petitioner for moving no confidence motion. There was a detail discussion in the meeting held on 18th September, 2017 and a no confidence motion was passed against the petitioner. Out of 13 members, 10 members voted in favour of the no confidence motion, 2 members did not vote and 1 member voted against the no confidence motion. The resolution was passed by 2/3rd majority.

4. Being aggrieved by the said decision taken in the no confidence motion in the said meeting held on 18th September, 2017, the petitioner preferred an appeal before the learned Collector, Nashik under the provisions of Maharashtra Village Panchayat Act, 1959. The learned Collector passed an order on 01st January, 2018 rejecting the appeal filed by the petitioner. The learned counsel for the petitioner submits that in the meeting held by the members proposing a no confidence motion against the petitioner, no reasons were recorded. He submits that similarly, the learned Collector, Nashik had also not recorded reasons and did not consider the submissions made by the petitioner.

5. The learned counsel for respondent nos. 1 to 13 and learned AGP for respondents 14 to 16 supported the decision taken in the meeting as well as the order passed by the learned Collector. The

learned counsel for respondent nos. 1 to 13 placed reliance on the judgment of this Court in case of ***Yamunabai Laxman Chavan & Ors Vs. Sarubai Tukaram Jadhav & Ors (2004(2) Mh.L.J 1004*** para 10. He submits that since out of 13 members, 10 members have voted in favour of the no confidence motion against the petitioner, 2 members did not vote, the resolution was passed by the majority of 2/3rd of the members. He submits that the said no confidence motion was passed after complying with the requirements of the statutory provisions. The will of the majority and the elected representative has to be honoured by the petitioner.

6. This Court in the case of *Yamunabai Laxman Chavan & Ors (Supra)* has adverted to the decision of Division Bench of this Court in the case of *Nimba Rajaram Mali Vs. Collector, Jalgaon, 1998(3) Mh.L.J. 204*, in which it has been held by the Division Bench of this Court that in the democratic society what is important is the will of the majority and the elected representatives must honour the will of the majority. It is immaterial to analyse and debate on the reason behind the will of the majority or the specific reasons for such will being expressed. The will of the majority is of paramount importance and it must be respected by all elected representatives responsible for the governance of such democratic institutions. The resolution cannot be faulted on the ground that there were no reasons or that the reasons

were vague and lacked detailed specifications. The principles laid down by the Division Bench of this Court which are adverted by the learned Single Judge of this Court in the said judgment in the case of Nimba Rajaram Mali (Supra) squarely applies to the facts of this case.

7. A perusal of the minutes of the meeting in which no confidence motion was passed against the petitioner clearly indicates that the allegations for moving a no confidence motion against the petitioner were specific and were discussed in the said meeting and a resolution of no confidence motion was passed against the petitioner by 10 out of 13 members in the said meeting who had voted in favour of such no confidence motion after recording reasons. I am bound by the principles of the law laid down by this Court in case of Yamunabai Laxman Chavan & Ors (Supra).

8. The learned Collector has also dealt with all the issues and has rendered a finding of fact which being not perverse cannot be interfered by this Court in this petition filed under Article 227 of the Constitution of India. The petition is devoid of merits and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)