

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 14196 OF 2018

Smt. Sunita Sunil Gaikar

...Petitioner

Versus

The State Of Maharashtra
and others

...Respondents

....

Mr. Sanjay S. Patil, Advocate for the Petitioner.

Mr. A.B. Kadam, A.G.P. for Respondents No.1 to 3-State.

....

CORAM : R. G. KETKAR, J.

DATE : 13th DECEMBER, 2018

P.C.

1. Not on board. At the request of Mr.Patil taken up in the production board.
2. Heard Mr.Sanjay Patil, learned counsel for the petitioner and Mr.A.B. Kadam, learned A.G.P. for respondents No.1 to 3, at length.
3. This Petition takes exception to the order dated 3.12.2018 passed by the Additional Collector, Thane in Dispute Application No.13/2018. By that order, the Additional Collector, Thane dismissed the Dispute Application filed by the petitioner under Section 35(3-B) of the Maharashtra Village Panchayats Act (for short, 'Act').
4. The petitioner had instituted dispute challenging passing of 'no-confidence motion' against her in the special meeting convened at 12 noon on 7.4.2018 in the office of Manivali Grampanchayat (for

short, 'Grampanchayat'). It is not in dispute that there are in all nine persons, including the petitioner herein, elected as Members of the Grampanchayat. On 3.4.2018, seven members out of nine members gave notice to Tahsildar proposing to pass 'no-confidence motion'. On the same day, the Tahsildar convened special meeting on 7.4.2018 for discussing the proposed 'no-confidence motion' against the petitioner. In pursuance thereof, on 7.4.2018 special meeting was convened in the office of the Grampanchayat at 12 noon and the Tahsildar, Kalyan presided over that meeting. A perusal of the proceedings of the meeting shows that the petitioner remained absent. Out of total eight members who were present, seven members who were present voted in favour of the 'no-confidence motion'. The petitioner filed dispute under Section 35(3-B) of the Act challenging passing of 'no-confidence motion' against her. That dispute is dismissed by the impugned order.

5. In support of this Petition, Mr. Patil strenuously contended that the notice dated 3.4.2018 issued by the Tahsildar itself was not served on the petitioner. The petitioner, therefore, was not aware of convening meeting on 7.4.2018 for discussing 'no-confidence motion'. The petitioner, therefore, could not attend said meeting and express her views on the proposed 'no-confidence motion'. He relied upon the decision of this Court in **Ashok Krishnakant Mehta Vs. State of**

Maharashtra, 2000(4)Mh.L.J.197. He, therefore, submitted that the proceedings of 'no-confidence motion' are vitiated and the dispute deserves to be allowed.

6. A perusal of the dispute application filed by the petitioner and in particular paragraph-1 thereof shows that the petitioner herself asserted that she received notice dated 3.4.2018 at 2:00 p.m. on 5.4.2018. She also enclosed said notice along with Dispute Application. Thus the contention of Mr. Patil that the petitioner did not receive the notice and consequently could not attend said meeting does not merit any consideration. Thus despite service the petitioner chose not to attend the meeting on 5.4.2018. She, therefore, cannot complain about not giving her opportunity to express her views in that meeting. The reliance placed on the decision of **Ashok Mehta** (supra), therefore, does not advance the case of the petitioner. A perusal of the impugned order shows that the Additional Collector held that eight members who were present had voted in favour of the motion of 'no-confidence' and accordingly the motion was carried out by majority of not less than three-fourth of the total number of the members who were for the time being entitled to sit and vote at said meeting.

7. For the reasons recorded in the impugned order, I do not find that the Additional Collector committed any error in dismissing the dispute. Hence, the Petition fails and the same is dismissed. Order accordingly.

(R. G. KETKAR, J.)