

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

WRIT PETITION NO.6397 OF 2018

Ashabai Ramchandra Sable

Age : 46 years, Occu : Household,

R/o. Kusumba Kh., Tq. & Dist. Jalgaon

.. Petitioner

Versus

1. The State of Maharashtra
2. Additional Collector
Jalgaon, Dist. Jalgaon
3. Presiding Officer and Tahsildar Jalgaon,
Dist. Jalgaon
4. Village Development Officer,
Grampanchayat
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
5. Devidas s/o Kautik Patil
Age : 40 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
6. Kailash s/o Sitaram Sonawane
Age : 41 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
7. Vikas s/o. Aatmaram Patil
Age : 35 years, Occu : Agri & Household,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
8. Smt Yamunabai w/o Hilalsingh Thakare
Age : 30 years, Occu : household,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
9. Sushilabai w/o Sharad More

- Age : 30 years, Occu : Household,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
10. Pravin s/o Dipchand Patil
Age : 33 years, Occu : Household,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 11. Vilas s/o Shantaram Koli
Age : 39 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 12. Bhaurao s/o Shamsingh Mahajan
Age : 39 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 13. Pallavi w/o Radhakishan Chaudhari
Age : 39 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 14. Bebabai w/o Yasin Tadvi
Age : 39 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 15. Bhushan s/o Aba Patil
Age : 39 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 16. Pramilabai w/o Vishnu Patil
Age : 39 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 17. Vatsalabai w/o Shenfadu Koli
Age : 39 years, Occu : Agri,
R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon
 18. Shital w/o Lotan Patil
Age : 39 years, Occu : Agri,

R/o. Kusumba Khurd, Tq. Jalgaon,
Dist. Jalgaon

.. Respondents

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Advocate for Petitioner : Shri S.D. Hiwrekar
AGP for Respondents No.1 to 3 : Shri A.B. Chate
Advocate for Respondents No.4 to 6 & 8 to 14 : Shri N.P. Deshmukh
Advocate for Respondents No.7, 15, 16 & 18 : Shri Inamdar Akram
h/f. Shri S.S. Kazi

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CORAM : PR. BORA, J.

Dated: July 03, 2019

ORAL JUDGMENT :-

1. This Writ Petition deserves to be allowed in view of the Judgment passed by this Court in Writ Petition No.6400 of 2018. The petitioner in Writ Petition No.6400 of 2018 while was elected as the Member and then became Sarpanch of village Kusumba Kd; the present petitioner was also elected as the Member and then became the Upsarpanch of the said Grampanchayat.

2. The requisition dated 18.01.2018 was a common requisition moving no confidence motion against the Sarpanch i.e. the petitioner in Writ Petition No.6400 of 2018 and Upsarpanch i.e. the present petitioner. In the meeting held on 24.01.2018, the no confidence motion was held to have been successfully carried out against both i.e. petitioner in Writ Petition No.6400 of 2018 and the present petitioner. The present petitioner preferred Grampanchayat Dispute No.14 of 2018 before the Collector, Jalgaon and the same

was dismissed vide Judgment and order passed by the learned Collector on 24.05.2018. The dispute raised by the petitioner in Writ Petition No.6400 of 2018 was bearing Grampanchayat Dispute No.13 of 2018 and except the name and designation, the entire other contents in the orders passed in Grampanchayat Dispute Nos.13 of 2018 and 14 of 2018 are common. The reasons, for which, this Court has set aside the no confidence motion passed against the petitioner in Writ Petition No.6400 of 2018, would squarely apply to the case of the present petitioner also.

3. Respondent No.7 – Vikas Aatmaram Patil had voted in favour of the no confidence motion against the present petitioner also and if his vote is excluded and / or kept out of consideration, the no confidence motion said to have been passed against the present petitioner cannot be said to have been passed by not less than 2/3rd of the total number of members of the Grampanchayat eligible to sit and vote at the relevant time. In the above circumstances, for the reasons recorded in Writ Petition No.6400 of 2018, the present Writ Petition also stands allowed with the following order.

ORDER

(i) The no confidence resolution alleged to be passed against the petitioner in the meeting held on 24.01.2018 is quashed and set aside. Consequently, the decision rendered by Collector,

Jalgaon in Grampanchayat Dispute No.14 of 2018 also stands set aside.

(ii) The petitioner is restored to the post of Member and in turn the Upsarpancha of Grampanchayat Kusumba Khurd with immediate effect.

(iii) Writ Petition stands allowed in the aforesaid terms.

(**PR. BORA, J.**)

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