

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

WRIT PETITION NO.7834 OF 2018

**PARMESHWAR PUNDLIK JADHAV
VERSUS
THE DISTRICT COLLECTOR NANDED AND OTHERS**

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Advocate for the Petitioner : Shri A. A. Mukhedkar
AGP for Respondent Nos. 1 and 2 : Shri S. W. Munde
Advocate for Respondent No.3 : Shri Y. K. Bobade
Advocate for Respondent No. 4 : Shri A. B. Shinde
Advocate for Respondent Nos. 5 to 9 : Shri P. B. Rakhunde

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 10th JANUARY, 2019.

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PER COURT :

1. The petitioner is aggrieved by the passing of the " No confidence motion" by a vote count of 5 : 2 dated 02/07/2015. The petitioner is also aggrieved by the order of the District Collector dated 26/06/2018, by which, his Appeal has been rejected.

2. The learned Advocate for the petitioner has strenuously submitted the following aspects :-

(a) There must be a proposer and a seconder to the motion of no confidence.

(b) The chair-person of the meeting which is normally the Tahsildar, should provoke a debate under Rule 26 of the Bombay Village Panchayat (Meeting) Rules, 1959.

(c) Reliance is placed on the judgment delivered in the case of ***Govind Nivrutti Hipparkar Vs. Tahsildar, Taluka Sangole and others, 2010 (Supp.1) Bom. C. R. 489***, to contend that members must not be passive listeners.

(d) It is also contended that the proposer and the seconder must rise to speak.

(e) If there is no healthy debate, the mandatory rule 26 would stand violated and the no confidence motion passed, will have to be quashed.

3. The learned Advocate appearing on behalf of respondent Nos. 3 and 5 to 9 and the learned AGP have opposed this petition.

4. The learned Full Bench of this Court has delivered the judgment in the matter of ***Tatyasaheb Ramchandra Kale Vs. Navnath Tukaram Kakde, 2014 (6) Mh.L.J. 804***. It is concluded that no proposer or seconder is mandatory and

Rules 17 and 18 of the 1959 Rules are directory. A similar issue fell for the consideration of the learned Full Bench at Aurangabad in the matter of *Ajinath Sampat Kadam Vs. The State of Maharashtra and others*, W. P. No. 5418/2013, decided on 02/11/2018, wherein, it has been concluded that Rules 17 to 26 of the 1959 Rules are directory in nature.

5. In view of the above, the law laid down by this Court in *Govind Nivrutti Hipparkar (supra)* cannot be followed.

6. This Court has held in *Jivan Somarya Thakare Vs. Additional Collector, Nandurabar and others*, W.P. 11788/2014, 2015 (3) Mh.L.J. 590 : 2016 (1) BCR 555, that though every member has a right to speak in such a meeting, there can be no compulsion that each member shall have to speak. If a member desires to speak, any act of restraining such a member would vitiate the proceedings.

7. In the instant case, the petitioner Sarpanch has addressed the members of the Grampanchayat in the said meeting and after he concluded his speech, the motion was put to vote and passed by five votes in favour of the said motion.

8. In view of the above, I find that this petition is devoid of merit and hence is dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-