

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9422 OF 2019

KANTA ARUN WAHATULE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.C.V.Thombre, Advocate for the petitioner.
Mr.S.R.Yadav, AGP for respondent Nos. 1 to 3.
Mr.A.V.Thombre h/f Mr.S.S.Thombre, Advocate for respondent Nos.
5 to 11.

(CORAM : Ravindra V.Ghughe, J.)

DATE : 31/07/2019

PER COURT :

1. The petitioner, who is a former Sarpanch of Village Panchayat, Pimplegaon (Walan), has suffered “No Confidence Motion” by 5 : 1 vote majority. She is aggrieved by the order dated 03/07/2019 passed by the District Collector, Aurangabad rejecting her dispute and sustaining the “No Confidence Motion” passed against her.

2. The learned Advocate for the petitioner submits that the petitioner is raising only one ground. There are 9 positions in the said Village Gram Panchayat. One seat was vacant. Out of the 8 members, the petitioner is the Sarpanch. 7 members signed a

requisition motion of no confidence on 31/05/2019. The Tahsildar, convened a special meeting on 04/06/2019. 2 signatories out of the 7, were disqualified on 15/01/2019 and since then they are not the members of the Village Panchayat, the requisition stands vitiated. The learned Advocate for the petitioner therefore submits that the notice itself is defective since 2 members out of 7 were disqualified and the Tahsildar has not properly scrutinized the said notice.

3. The learned AGP submits that the 2 persons, who were disqualified, did not attend the meeting. Since they were disqualified, they did not sit in the meeting. As such, it is inconsequential that 2 out of 7 signatories to the requisition were disqualified persons. He further adds that at the spur of the moment, the Tahsildar may not have the entire record available for scrutinizing as to whether any of the 7 signatories are disqualified members. Nevertheless, as the membership of the Village Panchayat was reduced to only 6, 5 signatories to the requisition notice were valid members who participated in the meeting and voted. The proposal was passed by a majority of 5 votes in favour and 1 vote against the motion.

4. In my view, merely because 2 signatories to the requisition

notice were disqualified members, would not vitiate the entire proceedings. U/s 35(1), 1/3rd of the total members, who are for the time being entitled to sit and vote at any meeting of the Panchayat, against the Sarpanch or the Up-sarpanch, are entitled to issue a notice of "No Confidence Motion". Such notice once given is mandatorily not permitted to be withdrawn. If the 2 signatories to the motion are held to be disqualified persons and their signatures are discounted and ignored, yet 5 members out of the 6 members entitled to vote, have signed the motion. Therefore, merely because the Tahsildar did not notice that 2 members are disqualified and have signed the requisition notice, would not lead to the entire notice being vitiated.

6. This petition, being devoid of merit, is therefore dismissed. The pending civil application does not survive and stands disposed off.

(Ravindra V.Ghuge, J.)