

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

**WRIT PETITION NO.9492 OF 2018
WITH
CIVIL APPLICATION NO.11452 OF 2018**

Smt. Alka Pandit Nagare,
Age : 35 years, Occ. Agri.,
r/o. Pagori Pimaplgaon,
Tq. Pathardi, Dist. Ahmednagar ..Petitioner

Vs.

The State of Maharashtra,
through its Secretary,
Rural Development Department,
Mantralaya, Mumbai – 400 032
and ors. ..Respondents

Mr. A.G.Ambetkar, Advocate for petitioner
Mr. A.S.Shinde, AGP for respondent nos.1 to 3
Mr. N.B.Narwade, Advocate for respondent nos.8, 12
and 13

**CORAM : R.G. AVACHAT, J.
RESERVED ON : AUGUST 26, 2019
PRONOUNCED ON : OCTOBER 10, 2019**

ORDER :-

The challenge in this Writ Petition is to the
order dated 04.08.2018 passed by the District
Collector, Ahmednagar, in Grampanchayat Dispute

Application No.32 of 2018 and the proceedings of motion of No-Confidence against the petitioner conducted on 02.06.2018 by the Tahsildar, Pathardi, Dist. Ahmednagar.

2. Heard Mr.Ambetkar, learned Counsel for the petitioner, Mr.Shinde, learned AGP for respondent nos.1 to 3 and Mr.Narwade, learned Counsel for respondent nos.8, 12 and 13.

3. The petitioner was elected as a Member of Village Panchayat, Pagori Pimpalgaon, Tq. Pathardi, Dist. Ahmednagar. Respondent nos.5 to 14 are also elected members of the same Grampanchayat. The petitioner was Sarpanch of the village. Respondent nos.1 to 14 moved a no-confidence motion against the petitioner. Pursuant to the said no-confidence motion, the Tahsildar issued notices to the members of the village panchayat to remain present for a special meeting convened for consideration of the motion of no-confidence against the petitioner –

Sarpanch. Accordingly, the meeting was held on 02.06.2018. The motion was carried. The Tahsildar informed the Collector accordingly. The post of village Sarpanch fell vacant.

4. The petitioner preferred a Grampanchayat Dispute, being Application No.32 of 2018, taking very many exceptions. On hearing the parties, the Collector dismissed the said Dispute. The petitioner is, therefore, before this Court.

5. According to learned Counsel for the petitioner, the provisions of Section 35 of the Maharashtra Village Panchayats Act, 1958 ("the Act", for short) have not been followed, while considering the motion of no-confidence. The notice of special meeting convened by the Tahsildar for consideration of the no-confidence motion, was not given to the petitioner within a reasonable period. The notice was not in the prescribed format. The no-confidence motion was also not in the prescribed form. Most of

the members of the village panchayat did not subscribe to the non-confidence motion by putting their signatures. Respondent no.9 – Manda put her signature in English in the proceedings of the special meeting. She, in fact, signs in Marathi. Respondent no.11 was not present in the meeting. In short, the grievance of the petitioner was that the mandatory provisions of Section 35 of the Act have not been followed. Even, the procedure applied in the meeting by the Tahsildar was in breach of the conditions of the meeting and in violation of rights of secrecy of the members. Learned Counsel, therefore, urged for allowing the petition in terms of Prayer Clause (B).

6. Learned Counsel for the respondents and learned AGP representing the State authorities support the impugned order.

7. I have carefully perused the judgment passed by the Collector upholding the proceedings of the

special meeting convened for consideration of the no-confidence motion moved against the petitioner. The Collector has addressed each and every grounds of objection raised by the petitioner in the Grampanchayat Dispute. I have also carefully perused the documents contained in the proceedings under challenge. Respondent nos.4 to 9 were parties to the Grampanchayat Dispute - Application before the Collector. They claimed to have had moved the no-confidence motion against the petitioner. The village panchayat is comprised of eleven members, including the petitioner. The proceedings indicate that the petitioner remained absent in the special meeting, in spite of service of notice. Whatever grounds the petitioner has raised as regards the conduct of the proceedings can, therefore, be stated to be based on her figment of imagination. Although the three of the members were held to be disqualified to hold their respective posts being members of village panchayat, there is an order dated 04.09.2019 passed in Writ

Petition No.4594 of 2017, indicating that there was an interim order staying the operation of a decision declaring them to be disqualified to continue as members of the village panchayat. The order was unconditional. They were not prohibited from participating in the proceedings of the village panchayat and cast their votes. As such, their participation in the meeting to consider no-confidence motion and casting votes in favour of the motion, could not be termed to be illegal one. The proceedings of the meeting indicates that 10 out of 11 members were present. One of them only did cast his vote against the motion of non-confidence. The motion was carried by 9 votes i.e. by more than the required votes (3/4th of the total number of members who were time being entitled to sit and vote in the meeting of village panchayat).

8. The Collector verified the fact that respondent no.9 – Manda put her signature in English

on the proceedings of the special meeting. Manda filed her affidavit affirming the same. As such, the Record and Proceeding, undoubtedly, indicate that the Tahsildar has followed/observed the provisions of Section 35 of the Act. The provisions of said Section do not prohibit for going for a voice vote or vote by raising hands. In fact, 9 out of 11 members of village panchayat had moved the no-confidence motion against the petitioner. During the meeting held for consideration of the non-confidence motion, the petitioner remained absent. All the 9 members cast their votes in favour of the no-confidence motion. As such, the motion was carried. Learned Counsel for the petitioner could not point out any provision of law or lapse on the part of the Tahsildar in conducting the meeting, rendering the no-confidence motion to be illegal or non-est. The Collector has addressed each and every objection raised by the petitioner in Grampanchayat Dispute Application.

9. On examination of the entire proceedings, this Court is at one with the decision of the Collector dismissing the Grampanchayat Dispute Application. The Writ Petition, thus, fails and is, therefore, dismissed. The Civil Application also stands disposed of.

[R.G. AVACHAT, J.]

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