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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.2960 OF 2018

Smt. Darpana Dinesh Walimbe ..Petitioner

Vs

Dyaneshwar Bhiva Chorghe & Ors. ..Respondents

Mr. Vikas Shivarkar for the Petitioner.
Mr. A.R. Metkari, AGP for State/Respondent Nos.9 to 11.

CORAM : A.S.GADKARI, J.

DATE : 23rd September 2019.

P.C.:

1] By the present petition under Article 227 of Constitution of India, the petitioner has taken exception to the Judgment and Order dated 20.9.2017 passed by the Additional Collector, Thane i.e. respondent No.9 herein, under section 35(3-B) of Maharashtra Grampanchayat Act, 1959 (for short "the said Act") in appeal bearing Appeal/Desk/Grampanchyat/Case No.81 of 2006, thereby upholding disqualification of the Petitioner on the basis of no confidence motion moved by the Members of the Grampanchyat of village Goveli, Post-Rayata, Taluka Kalyan, District Thane and approved by the Gram Sabha on 21.11.2016.

2] Heard Mr. Shivarkar, the learned counsel for the petitioner and the learned AGP for the State. None appears for respondent Nos.1 to 6 desepite service. Perused the record.

3] The record indicates that, Grampanchayat of Goveli, Taluka Kalyan, District Thane consists of in all nine members. On 16.11.2016 out of said nine members, eight members moved No Confidence Motion under section 35 of the said Act and submitted its representation to the Tahasildar, Kalyan, District Thane i.e. the respondent No.10. That, after receipt of the said notice, the Tahasildar, Kalyan conducted Special Meeting on 21.11.2016 at about 2.00 p.m. in the Grampanchyat Office. In the said meeting conducted by the Tahasildar, eight members supported the motion of no confidence against the petitioner and the petitioner was held to be disqualified from holding the post of “Sarpanch” of the said Grampanchayat.

4] The said proceedings/Order dated 21.11.2016 and disqualification was challenged by the petitioner before the respondent No.9 in Appeal No.81 of 2016 filed under section 35 (3-B) of the said Act. The Appellate Authority after hearing the petitioner and after scrutinizing the evidence available on record, has rejected the said appeal and confirmed the No Confidence Resolution dated 21.11.2016 passed by the members of the Grampanchyat of the said village by its impugned Order dated 20.9.2017.

5] Mr. Shivarkar, the learned counsel for the petitioner submitted that, the notice of no confidence motion moved by the members of the Grampanchyat about the Special Meeting which was conducted on 21.11.2016 was not served upon the petitioner, as contemplated under section 35 (1) of the said Act and therefore the proceedings conducted on 21.11.2016 in the presence of Tahasildar, Kalyan are vitiated. He therefore prayed that, the impugned Judgment and Order may be quashed and set aside by allowing the present petition.

6] A minute perusal of the record would indicate that, after the members of the said Grampanchayat submitted their motion of no confidence with the respondent No.10, he further issued notice dated 16.11.2016 under section 35 of the said Act to the petitioner which was accompanied by No Confidence Motion letter signed by eight members of the Grampanchayat. The record further indicates that, on 21.11.2016 the respondent No.10 presided over the meeting for motion of No Confidence and in his presence eight members out of total nine members supported the said motion and accordingly the said motion was passed against the petitioner. Perusal of the record would further indicate that, there is no irregularity or error committed by the respondent No.10, either in issuing notice to the petitioner or conducting the said special meeting where the resolution of motion of no confidence against the petitioner was considered and passed. It therefore clearly appears that, there is no substance in the contention of the petitioner as noted hereinabove.

7] Perusal of the impugned Order would indicate that, the Appellate Authority after scrutinizing the entire material available on record has passed a well-reasoned and elaborate Order. I find no error either in law or on facts in the impugned Order.

Writ Petition being dehors of merits, is accordingly rejected.

(A.S.GADKARI, J.)