

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST.) NO.29656 OF 2019

Ramesh Ananta Patil ... Petitioner
Vs.
The State of Maharashtra and others ... Respondents

Mr. Sanjay S. Patil for Petitioner.
Mr. P. V. Nelson Rajan, AGP for Respondent Nos.1 to 4-State.
Mr. Rohit Joshi for Respondent Nos.5 to 10.

CORAM : UJJAL BHUYAN, J.
DATE : NOVEMBER 29, 2019

P.C. :

Heard Mr. Patil, learned counsel for the petitioner; Mr. Rajan, learned AGP for respondent Nos.1 to 4-State and Mr. Joshi, learned counsel for respondent Nos.5 to 10.

2. Petitioner was *Sarpanch* of *Grampanchayat* Bapgaon since 22.02.2019. In the election held in the year 2015, 9 persons were elected as members of the said *Grampanchayat*. On 22.08.2019, a motion of no confidence was moved against the petitioner by 6 members out of 9 under Section 35 of the Maharashtra Village Panchayats Act, 1958.

3. Petitioner resigned from the post of *Sarpanch* on 22.08.2019 by addressing letter to the concerned *Tahsildar*.

4. Notwithstanding resignation of the petitioner, a special meeting of the *Grampanchayat* was held on 28.08.2019 whereby and whereunder motion of no confidence was adopted against the petitioner.

5. Thereafter the aforesaid resolution was accepted by the Collector vide order dated 18.11.2019.

6. Aggrieved by the aforesaid, present writ petition has been filed.

7. From the above narration of facts, it is evident that 6 out of 9 members of the *Grampanchayat* had expressed no confidence in the petitioner. Resignation by *Sarpanch* is dealt with under Section 34 of the Maharashtra Village Panchayats Act, 1958 (Panchayats Act). As per sub-section (4), provisions of sub-sections (2) to (6) of Section 29 of the Panchayats Act will apply in case of resignation by *Sarpanch* or *Upa-sarpanch*. A perusal of sub-sections (2) to (6) of Section 29 would go to show that the resignation would have to be forwarded to the Secretary of the *Grampanchayat* within 7 days who shall thereafter forward it to the Collector for his decision within 15 days. Decision of the Collector is appealable to the Commissioner.

8. From the above, what transpires is that on the day when the special meeting was held i.e., 28.08.2019 whereby no confidence motion was adopted against the petitioner, though the petitioner had resigned as *Sarpanch*, his resignation was yet to be accepted. In other words, the resignation had not yet taken effect. If that be so, no fault can be found with the no confidence motion adopted against the petitioner on 28.08.2019 and the consequential order dated 18.11.2019 passed by the Collector.

9. Writ Petition is devoid of any merit and is accordingly dismissed.

(UJJAL BHUYAN, J.)

Minal Parab