

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

M.C.A. (Review) No.149 of 2019
in
Writ Petition No.1425 of 2017
(Sachin Dayanand Ramgaonkar and ors. .vs. Manoj Ghanshyamdas Banode
and ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders.
and Registrar's orders

Mr. A.P. Kalmegh, Advocate for Applicants
Mr. A.R. Chutke, AGP for Respondent No.11.

CORAM : Manish Pitale, J.
DATED : February 6, 2019.

This is a review application filed on behalf of the applicants who were respondents before this Court in Writ Petition No.1425 of 2017. It is contended that there has been an error apparent on the face of the record of the judgment dated 21.01.2019 passed by this Court while partly allowing Writ Petition No. 1425 of 2017.

2. The main contention raised on behalf of the applicants is that while dealing with the question as to whether the petitioner (Sarpanch of the Gram Panchayat) had a right to address the meeting wherein motion of no confidence was moved against him, this Court has not taken into consideration Full Bench judgment of this Court in the case of **Ajinath Sampat Kadam .vs. The State of Maharashtra** (Judgment and order dated 02.11.2018 passed in Writ Petition No.5418 of 2013) and judgment of the learned Single

Judge of this Court in the case of **Shrikrushna Digambar Jadhav .vs. Additional Commissioner - 2009(4) Mh.L.J. 943** as also Division Bench judgment of this Court in the case of **Nimba Rajaram Mali .vs. Collector, Jalgaon - 1998(3) Mh.L.J.204.**

3. It is contended that as per the aforesaid Full Bench judgment of this Court in the case of **Ajinath Sampat Kadam .vs. The State of Maharashtra** (supra), following the earlier Full Bench judgment in the case of **Tatyasaheb Ramchandra Kale .vs. Navnath Tukaram Kakde - 2014 (6) Mh.L.J. 804**, the Full Bench held that in addition to Rule 17 of the Meeting Rules not being mandatory and only being directory, Rules 18 to 26 of the Meeting Rules were also held to be merely directory in nature and not mandatory. On this basis, it was contended that this Court had committed an error in insisting that the said Rules 17 to 26 of the Meeting Rules ought to have been followed in the present case and that failure to follow the said rules had vitiated the meeting in which the no confidence motion was passed against the Sarpanch i.e. petitioner in the present writ petition. It was further pointed out that the learned Single Judge in the case of **Shrikrushna Digambar Jadhav .vs. Additional Commissioner** (supra) had held that the possibility of the person against whom no confidence motion was moved gathering support if an opportunity was granted to such a person to address the meeting, was not a relevant consideration in such a matter and that absence of opportunity to speak given to such a person would not

vitate a motion of no confidence passed against the said person. By placing reliance on Division Bench judgment of this Court in the case of **Nimba Rajaram Mali .vs. Collector Jalgaon** (supra), the learned counsel submitted that the view adopted by this Court that opportunity of speaking to be given to the petitioner was mandatory, was not supported by the position of law and that, therefore, the said judgment and order was required to be reviewed.

4. Insofar as the Full Bench judgment of this Court in the case of **Ajinath Sampat Kadam .vs. The State of Maharashtra** (supra) is concerned, no doubt it has been reiterated following **Tatyasaheb Ramchandra Kale .vs. Navnath Tukaram Kakde** (supra) that not only Rule 17 of the Meeting Rules is merely directory but Rules 18 to 26 are also directory. But the ratio of the said judgment does not lead to a conclusion that there is no requirement of giving an opportunity to a person like the petitioner herein to address a meeting in which the motion of no confidence has been proposed against him. In the judgment passed by this Court, there is no question of this Court having held in the teeth of the said two Full Bench judgments that Rules 17 to 26 of the Meeting Rules were mandatory and that violation thereof led to relief being granted to the petitioner. On the contrary, this Court has emphatically held that the reason why the writ petition was being partly allowed was that the petitioner was not given an opportunity to address the members during the meeting wherein motion of no confidence

was considered and that this was a clear violation of the requirement of law.

5. As regards the Division Bench judgment in the case of **Nimba Rajaram Mali .vs. Collector, Jalgaon** (supra), in the said judgment in paragraph 7 it is categorically said that in the facts of that case, each and every ground on which no confidence motion was moved against the person therein, was discussed in detail in the meeting. Therefore, the said Division Bench judgment is clearly distinguishable on facts from the present case wherein, as noted in the judgment of this Court, other than a single sentence in the minutes of the meeting that discussion was undertaken, there are no details forthcoming as to the manner in which the petitioner was granted any opportunity to address the members in the meeting. For the said reason, the judgment of the learned Single Judge of this Court in the case of **Shrikrushna Digambar Jadhav .vs. Additional Commissioner** (supra) which relies in turn on the Division Bench judgment of this Court in the case of **Nimba Rjaram Mali .vs. Collector, Jalgaon** (supra), can be of no assistance to the review-applicants.

6. In the light of the above, this Court finds that the applicants in the present case have failed to demonstrate any error apparent on the face of the record of the judgment passed by this Court. This is particularly so because in the said judgment, this Court has followed the dictum laid down by the Division Bench of this Court in the case of **Ashok Krishnakant**

Mehta .vs. State of Maharashtra and ors - AIR 2001 Bombay 55 and judgments of the learned Single Judge of this Court in the case of **Vijay Ramchandra Katkar .vs. Group Gram Panchayat, Pali - 2010 (4) Mh.L.J. 497** and in the case of **Nivrutti kashinath Bansode .vs. Gramsevak, Grampanchayat, Nazara** (W.P.No.6873 of 2008 dated 25.10.2008) in addition to other such judgments of this Court, wherein it has been categorically laid down that an opportunity ought to be granted to a person like the petitioner (Sarpanch herein) to express his views in a meeting where motion of no confidence is being considered.

7. Since no error apparent on the face of the record has been demonstrated by the applicants, this Court is not convinced that review jurisdiction can be exercised in their favour. This Court is not exercising any appellate jurisdiction to consider the application filed by the applicants. Therefore, this application is found to be without any merit and the same is dismissed.

JUDGE

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