

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

WRIT PETITION NO.2194/2019

Ramesh Anandrao Sayare
Vs.
The Additional Collector, Nagpur and others.

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

Court's or Judge's Orders.

Shri B.S.Dhandale, Advocate for petitioner.
Shri S.Bissa, Assistant Government Pleader for respondent nos.1 and 2.

CORAM : A.S.CHANDURKAR, J.

DATED : NOVEMBER 28, 2019.

The challenge raised in the present writ petition is to the order dated 18.02.2019 passed by the Additional Collector in proceedings under Section 35 (3-B) of the Maharashtra Village Panchayats Act, 1958. The petitioner was elected as Sarpanch on 20.09.2015. On 11.06.2018 a motion was moved by nine members stating therein that the petitioner had lost their confidence and hence they intended to move a motion against him. The Tahsildar accordingly convened a special meeting on 15.06.2018. In the absence of the petitioner, the said meeting was held and the motion was passed with nine members in its favour. The appeal filed by the petitioner against the said motion has been dismissed by the impugned order.

Shri B.S.Dhandale, learned counsel for the petitioner submits that on 11.06.2018 the petitioner had sought leave to remain absent from Gram Panchayat as he desired to go to Shegaon for a religious visit. The petitioner was not in the village from 12.06.2018 to 15.06.2018. In the absence of the petitioner,

a show was made that notice was affixed on the door of the petitioner's house. The panchanama in that regard could not be relied upon since there was no date on the said panchanama. Moreover, an adult member of the family was present in the house at the relevant time and the notice could have been served on that adult member. All this material were placed before the Additional Collector and by relying upon the decision in *Shivkant Vs. Gramsevak, Grampanchayat Office, District Osmanabad 2010 (6) Mh.L.J.149*, it was submitted that non-compliance of the provisions of Rule 2(2) of the Maharashtra Village Panchayat Sarpanch and Upa-Sarpanch (No Confidence Motion) Rules, 1975 vitiated the proceedings of the special meeting. The impugned order was therefore liable to be set aside.

Shri S.Bissa, learned Assistant Government Pleader has produced records of the case as directed. He supported the impugned order and submitted that since the motion was passed by more than two third members, there was no reason to interfere with the impugned order. The petitioner had lost confidence of the members of the Gram Panchayat.

Heard the learned counsel for the parties and perused the records. There is a dispute with regard to service of the notice of special meeting dated 11.06.2018. According to the respondent nos. 3 to 12 the notice was affixed on the house of the petitioner and panchanama dated 14.06.2018 is relied upon in that regard. According to the petitioner, there is a breach of Rule 2(2) of the said Rules and hence the proceedings of the special meeting held without proper notice to the petitioner stand vitiated. The Additional Collector has accepted the panchanama and has held that the Rules were complied with. In the light of the fact that out of ten members of the Gram Panchayat, nine members excluding the petitioner had supported the motion, it is clear that the petitioner has lost confidence of the Gram

Panchayat. Even if it is accepted that the petitioner could have remained present in the said meeting, considering the overwhelming majority of members against him his presence could not have made much difference.

Dispute with regard to authenticity of the panchanama gives rise to a disputed question which cannot be adjudicated in writ jurisdiction. Hence there is no reason to interfere with the impugned order. The writ petition is accordingly disposed of. No costs.

JUDGE

Andurkar.