

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5145/2018

(SAVITRABAI SHANKAR BICHEWAR **VERSUS** ADDITIONAL COLLECTOR, YAVATMAL & OTHERS)

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

Court's or Judge's orders

Shri K.S. Narwade, counsel for petitioner.
Shri A.M. Kadukar, counsel for R-1 & 2.
Shri J.S. Wankhede, counsel for R-4 to 13..

CORAM : A.S. CHANDURKAR, J.

DATE : SEPTEMBER 13, 2019.

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard at length.

The petitioner was elected as a Member of the Gram Panchayat in the year 2015 and thereafter as its Sarpanch. There were in all seventeen members elected in the said Gram Panchayat. Two Gram Panchayat members came to be disqualified pursuant to disqualification proceedings initiated against them. When the said two members were disqualified, a special meeting of the Gram Panchayat was convened for considering the motion of no confidence that was moved against the petitioner and the said motion was passed by 2/3rd majority. Ten members voted in favour of the motion while five members voted against it. The motion was held to be carried. The petitioner being aggrieved, challenged that order by filing an appeal before the Additional Collector. By the impugned order, the Additional Collector proceeded to reject the said appeal. Hence, this writ petition.

Shri K.S. Narwade, learned counsel for the petitioner submitted that as the Gram Panchayat consisted of seventeen members and the motion was required to be carried with $2/3^{\text{rd}}$ majority, only ten members had voted in favour of the motion and the same did not constitute $2/3^{\text{rd}}$ majority as prescribed. Hence, the requirements of Section 35(1) of the Maharashtra Village Panchayats act, 1959 were not satisfied. The disqualification of two members was inconsequential for the purposes of computing $2/3^{\text{rd}}$ majority. The total number of members continued to be seventeen in view of interim orders passed in the disqualification proceedings. Hence, the impugned order was liable to be set aside.

Shri J.S. Wankhede, learned counsel for the respondent nos.4 to 13 supported the impugned order. He submitted that though the Gram Panchayat consisted of seventeen members, two members had been disqualified prior to the said special meeting. In the proceedings initiated by those disqualified members, there was no interim relief granted as a result of which they could not be treated as members who were eligible to sit and vote at such meeting. He referred to the orders passed in the appeal preferred by one of the disqualified members to indicate absence of such interim relief. Hence, the impugned order did not call for any interference.

Shri A.M. Kadukar, learned Assistant Government Pleader appeared for the respondent nos.1 to 3.

On hearing the learned counsel for the parties and after perusing the documents filed on record, it is found that the impugned order does not deserve to be interfered with. It is undisputed that though the Gram Panchayat consists of seventeen members, two members were disqualified prior to holding of the special meeting. In the proceedings initiated by those disqualified

members, no interim orders were passed by virtue of which they could contend that they were eligible to sit and vote at the special meeting. The strength of the Gram Panchayat was thus reduced to fifteen. From the said fifteen members, ten members have voted in favour of the motion. That figure constitutes $2/3^{\text{rd}}$ of the members who are eligible to sit and vote at the special meeting. It is thus seen that the requirements of Section 35(2) of the said Act have been duly met. The Collector has also recorded a finding in that regard. In that view of the matter, the impugned order does not call for any interference.

The Writ Petition is therefore dismissed. No costs.

JUDGE

APTE