

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

WRIT PETITION NO. 4997/2018

(MUKTABAI MANIKRAO WANARE **VERSUS** THE COLLECTOR, BULDANA & OTHERS)

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

Court's or Judge's orders

Ms Deepali Sapkal, counsel for petitioner.
Shri H.D. Dubey, A.G.P. for R-1 & 2.
Shri R.D. Karode, counsel for R-3 to 11.

CORAM : A.S. CHANDURKAR, J.

DATE : AUGUST 19, 2019.

The petitioner who was elected as Sarpanch of Gram Panchayat Ghirni, Taluka Malkapur, District Buldana is aggrieved by the dismissal of the appeal preferred by her under Section 35-D of the Maharashtra Village Panchayats Act, 1959 (for short, 'the said Act'). With the dismissal of that appeal, the motion of no confidence passed against her on 22.05.2018 has been confirmed.

The principal ground of challenge as raised is with regard to absence of a proper notice to the petitioner whereby the Tahsildar had convened the said meeting of the Gram Panchayat on 22.05.2018 for considering the motion of no confidence. It is the case of the petitioner that from 16.05.2018 to 21.05.2018, she was not available at the village as she had gone out of station. In her absence, it was sought to be projected that the notice had been duly served on her. It is the further case that her acknowledgment is shown to have been illegally made on the said notice. In the meeting held on 22.05.2018, the motion was carried with nine members expressing the absence of confidence in the petitioner and one member voting otherwise. The petitioner was not present in the said meeting. The appeal filed by the petitioner has been dismissed by the Additional Collector after considering the facts of the case.

Heard Ms Deepali Sapkal, learned counsel for the petitioner, Shri R.D. Karode, learned counsel for the respondent nos.3 to 11 and Shri H.D. Dubey, learned Assistant Government Pleader for the respondent nos.1 and 2. It is seen that though it is the contention of the petitioner that she was not duly served with the notice of the said meeting, on a day prior to that meeting, the petitioner had made a grievance in that regard to the Tahsildar. In other words, the petitioner had knowledge that a special meeting to consider the motion of no confidence was to be conducted on 22.05.2018. No steps were shown to have been taken by the petitioner to remain present on 22.05.2018 with a view to participate in the said meeting. The motion in question has been carried by more than 3/4th of the members who were present. The petitioner having lost the confidence of the Gram Panchayat has no legal right therefore to continue in Office. Even otherwise, her presence in the said meeting would not have made much difference to the outcome of the said proceedings. In that view of the matter, I do not find any case made out to interfere in writ jurisdiction.

The Writ Petition is therefore dismissed. No costs.

JUDGE

APTE