

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6277 OF 2021

Aabasaheb s/o Manohar Ubale,
Age : 39 years, Occu. Agri.,
R/o Bhend (Kh), Tal. Gevrai,
District Beed

PETITIONER

VERSUS

1. The State of Maharashtra,
through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The District Collector, Beed
3. The Tahsildar,
Tal. Gevrai, Dist. Beed
4. The Grampanchayat,
Bhend (Kh), Tq. Gevrai,
Dist. Beed, through its
Gramsevak
5. Ashwini Shankar Shinde
6. Alka Kachru Navgire
7. Digambar Vitthal Kolpe
8. Kalinda Pandit Kamble
9. Ashwini Dhaneshwar Khetre
10. Sunil Maroti Jadhav
11. Kavita Asahok Bangar
12. Urmila Pradip Khande

Respondent Nos.5 to 12 are
R/o Bhend (Kh.), Tq. Gevrai,
District Beed

RESPONDENTS

....

Mr. Shrikant G. Kawade, Advocate for the petitioner

Mr. Y.G. Gujrathi, A.G.P for the respondent/State

Mr. A.S. Jagtap, Advocate for respondent No.4

Mr. A.N. Nagargoje, Advocate for respondent Nos.5 to 12

.....

CORAM : MANGESH S. PATIL, J.

DATE : 28.10.2021

PER COURT :

Heard both the sides finally. At their request, the matter is being disposed of finally at the stage of admission.

2. The petitioner is aggrieved by the dismissal of his appeal preferred under Section 35 (3B) of the Maharashtra Gram Panchayat Act, 1958 against 'No Confidence Motion', non-sitting him from the post of Upa-Sarpanch.

3. After having heard the learned Advocates of both the sides and the learned A.G.P, it transpires that several submissions were made before the learned Collector touching the aspect of validity or otherwise of the No Confidence Motion. There was a dispute regarding couple of elected members having failed to furnish caste validity certificates. Even issue regarding maintainability of appeal was raised. Apart from this, the issue regarding the petitioner having not been served with the notice of the meeting was also agitated, which was specifically denied by the

respondents. It was also submitted before him that there was no misconduct on his part and he was not extended an opportunity to put up his case before the meeting.

4. In spite of all such argument of the parties having been reproduced in the initial part of the impugned order, the learned Collector has merely declared the decision without indulging in any discussion touching the merits or otherwise of all these submissions. It is pertinent to note that he was deciding the appeal and was expected to have undertaken the exercise in the letter and spirit while passing the order, which is in the nature of a quasi-judicial order. Only in few lines, he has declared that the procedure that was followed for passing the no confidence motion was strictly in accordance with law and that few members had not furnished caste validity certificate, even without considering its effect on the ultimate decision as far as the majority by which the motion is supposed to be passed.

5. All in all, by no stretch of imagination, the impugned order can be said to be a speaking order. Suffice for the purpose to refer to the decision of this Court, touching this aspect, in the case of ***Kum. Nirmala Tikana Giripo Vs. State of Maharashtra & Ors.; 2009(1) ALL MR 91.***

6. In the result, the petition succeeds but only partly. The matter will have to be remanded for the decision by the Collector bearing in mind the observations of this Court in the decision in the case of ***Kum. Nirmala***

Tikana Giripo (supra) and the observations made hereinabove.

7. The Writ Petition is partly allowed. The impugned order is quashed and set aside.

8. The matter is remitted back to the Collector for decision on merits in the light of the observations made hereinabove as early as possible and in any event on or before 30.11.2021. Till then, the vacancy shall not be filled in.

9. The parties to appear before the Collector on 08.11.2021 and there shall be no need for the Collector to issue any notice to them.

[MANGESH S. PATIL]
JUDGE