

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

WRIT PETITION NO.2810 OF 2021

[Leena Arvind Tandekar **..Vrs..** Additional Collector, Bhandara and
Ors.]

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

Court's or Judge's order and

Shri. I. S. Charlewar, Advocate for Petitioner
Ms. N. P. Mehta, AGP for the Respondent Nos.1 and 2
Shri. S. O. Ahmed, Advocate for Respondent Nos. 4 to 12.

CORAM : **N. B. SURYAWANSHI, J.**

DATE : **21th OCTOBER, 2021.**

1. This petition challenges the order dated 20.07.2021 passed by the Respondent No.1/Additional Collector, Bhandara in G. P. Appeal No.42-A/69/2020-21, thereby disqualifying the Petitioner under Section 35(3) of the Maharashtra Village Panchayat Act, 1958 (for short, "the said Act").

2. This matter was taken up for admission on 06.10.2021 and after hearing the learned Advocate for Petitioner, this Court observed as follows :

“It is the grievance of the Petitioner that she is a directly elected Sarpanch. Therefore, in terms of Section 35 (1) (a) of the Maharashtra Village Panchayats Act, if the motion of No Confidence is carried by a majority of not less than 3/4th of the total number of members, the same has to be ratified before the Special Gramsabha by the secrete ballot, which is not done in the present case.

2. The Petitioner by raising the said ground, challenged the motion of No Confidence before the Additional Collector, Bhandara, by filing Village Panchayat Appeal, which is dismissed by the impugned order.

3. The Petitioner relies on the decision of a Single Bench of this Court at Aurangabad Bench in Writ Petition No.238/2021 and Writ Petition No.214/2021 with Writ Petition No.223/2021, in support of arguments.

4. The Petitioner has made out a *prima facie* case for interim relief.”

3. This Court granted interim relief in favour of the Petitioner, thereby staying the impugned Resolution dated 21.06.2021.

4. In response to the notice, the Respondent Nos.4 to 12 appeared and have filed their reply contending that on 09.07.2021, a Special Gramsabha meeting was convened under the Chairmanship of Tahsildar/Respondent No.2, which was attended by 906 members of Gramsabha including the Petitioner and answering Respondents. In the said Gramsabha, voting by secret ballot was conducted, 499 votes were casted in favour of No Confidence Motion resolution and 312 votes were casted against the No Confidence Motion. Therefore, the No Confidence Motion passed against the Petitioner on 21.06.2021 was ratified in the special Gramsabha by secret ballot as per the provisions of Section 35(1)(a) of the said Act. It is further contended that the ground of violation of the provisions of Section 35(1)(a) of the said Act, was not even raised in the Appeal filed before the Additional

Collector, Bhandara.

5. In ground no.iv, the Petitioner has averred that the Petitioner directly came to be elected on the post of Sarpanch, and therefore, it was incumbent on the part of the Respondent No.2 to take the resolution in respect of No Confidence Motion against the Petitioner in the Gramsabha.

6. It is therefore clear that the Petitioner has suppressed the fact that the No Confidence Motion passed against the Petitioner on 21.06.2021 was ratified in the special Gramsabha meeting held on 09.07.2021, in which the Petitioner was present and has obtained interim relief by misleading this Court.

7. The No Confidence Motion was passed by the Members of the Village Panchayat by 3/4th majority and the same is ratified in the special Gramsabha meeting held on 09.07.2021. Thus, the Resolution is passed by following procedure prescribed under Section 35 of the said Act. There is no substance in the other grounds raised by the Petitioner. The record indicates that the Motion was rightly passed and prescribed procedure was followed, while disqualifying the Petitioner. There is no merit in the challenge raised by the Petitioner. As the Petitioner has mislead this Court, the Petitioner is liable to be saddled with costs. In the result, Writ Petition No.2810 of 2021 is **dismissed** with costs of Rs.25,000/- to be paid by the Petitioner to the High Court Legal Services Sub-

Committee, Nagpur, within a period of two weeks from today. In case of failure on the part of the Petitioner to pay the costs, the same shall be recovered by taking coercive steps.

8. interim order stands vacated.

(N. B. SURYAWANSHI, J.)

TAMBE