

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.937 OF 2022

Abasaheb Manohar Ubale

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

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Mr. Shrikant Kawade, Advocate for the petitioner.

Mr. A.N. Nagargoje, Advocate for Respondent No. 5.

Mrs. V.S. Chaudhari, AGP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd FEBRUARY, 2022

ORDER :

1. The Petitioner is Sarpanch against whom No Confidence Motion is passed. The Petitioner challenged the No Confidence Motion by filing appeal before Collector. The Collector has dismissed the appeal. Hence, the present petition.

2. The Petitioner came to elected as a member of Village Panchayat Bhend (Kh), Tq. Gevrai, Dist. Beed. Total 9 members of the Village Panchayat are elected including the Petitioner who is directly elected as Sarpanch. A requisition for No Confidence Motion was moved by Respondents No. 5 to 12 on 05.11.2020, before Tahsildar, Gevrai. Tahsildar, Gevrai issued

notice dated 05.11.2020. According to the Petitioner, same is not served on him. In the meeting dated 09.11.2020, No Confidence Motion was unanimously passed against the Petitioner by 8 members. The Petitioner did not participate in the meeting.

3. The Petitioner challenged the No Confidence Motion by filing appeal before the District Collector mainly on two grounds. Firstly, the notice for meeting of No Confidence Motion was not served on the Petitioner. Secondly, at the time of passing of No Confidence Motion, two members of the Village Panchayat had not submitted caste validity certificate within stipulated time, and therefore, they were not eligible to vote. The Collector dismissed the appeal holding that, when the Talathi went to serve the notice, the Petitioner has refused to accept the same, and did not allow Talathi to stick the notice on his house. The notice was therefore, stuck on the Gram Panchayat Office. The two members who had voted in favour of No Confidence Motion were not disqualified till the date of the meeting, therefore, they were entitled to vote in the meeting.

4. Heard the learned advocate for the Petitioner and learned advocate for Respondent No. 5 and the learned Assistant Government Pleader. It is clear that the Petitioner has lost

confidence of the majority. Admittedly, till the date of meeting i.e. 09.11.2020, no disqualification order was passed against two members who have not submitted caste validity certificate. In terms of Section 16(2), till the disqualification order is passed, the member is entitled to be a member. Therefore, it is not possible to accept the submission of the Petitioner that the said two members were not entitled to vote. Even if two votes are excluded from consideration, still the No Confidence Motion is passed against the Petitioner by 2/3rd majority.

5. The record reveals that when Talathi went to serve notice on the Petitioner, the Petitioner has refused to accept the same and also did not allow Talathi to stick the notice to his house. Thereafter the Petitioner cannot claim that notice was not served on him.

6. The Collector has rightly dismissed the appeal filed by the Petitioner by a reasoned order. There is no merit in the petition. The Petition is dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE