

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1452 OF 2022

Yashvada alias Yashoda Ashok Mane .. Petitioner
Versus
Siddharth Ashok Patil & Ors. .. Respondents

...

Mr.Amol B. Patil for the Petitioner.
Mr.S.H.Kankal, AGP for the State/Respondent No.14.

...

CORAM: RAVINDRA V. GHUGE, J.
DATED : 15th FEBRUARY, 2022

P.C:-

1. By this petition, the petitioner, who was the lady sarpanch of Gram Panchayat Kasar-Shirambe, Taluka Karad, District Satara, has put forth prayer clause 15(A) and 15(B) as under :-

“A] That this Hon’ble Court be pleased to issue appropriate Order and or direction and be pleased to call for the record and proceedings of Dispute Application No.99 of 2020 and after going through the legality and propriety thereof further be pleased to quash and set aside the impugned Judgment and Order dated 20.09.2021, passed by the Ld.Collector, Satara in Dispute No.99 of 2021, in the interest of justice.

B] That this Hon’ble Court be pleased to issue appropriate Writ, Order and or direction and be pleased to declare that the proceeding of Special Meeting dated 18.06.2020 and Special

Gram Sabha dated 09.10.2020, convened for the No Confidence Motion, is itself illegal, perverse and bad in law.”

2. The contentions of the learned Advocate for the petitioner can be summarised as under :-

(a) The petitioner was a directly elected Sarpanch in the election held on 17/10/2017.

(b) An amendment to Section 35(3) of the Maharashtra Village Panchayats Act was introduced on 13/08/2018 mandating the ratification of the no-confidence motion passed by the elected body, before the Gram Sabha through a secret ballot voting, which reads as under :-

“35(3) If the motion of no-confidence is carried by a majority of not less than three-fourth of the total number of the members who are for the time being entitled to sit and vote at any meeting of the Panchayat, the Sarpanch or the Upa-Sarpanch, as the case may be, and ratified before the special Gram Sabha by the secret ballot in the presence and under the Chairmanship of the Officer appointed for the purpose by the Collector, shall forthwith stop, exercising all the powers and, performing all the functions and duties of the office and thereupon such powers, functions and duties shall vest in the Upa-Sarpanch, in case the motion is carried out against the Sarpanch; and in case the motion is carried out against both the Sarpanch and Upa-Sarpanch, in such officer, not below the rank of Extension Officer, as may be authorised by the Block Development Officer, till the dispute, if any, referred to under sub-section (3B) is decided :

Provided that, if the dispute so referred is decided in favour of the Sarpanch or, as the case may be, Upa-Sarpanch, thereby setting aside such motion, the powers, functions and duties of the Sarpanch or Upa-Sarpanch shall forthwith stand restored, and if the dispute is decided confirming the motion, the office of the Sarpanch or, as the case may be, Upa-Sarpanch shall be deemed to have fallen vacant from the date of the decision of the dispute, unless the incumbent has resigned earlier;

Provided further that, in cases where the offices of both the Sarpanch and Upa-Sarpanch become vacant simultaneously, the officer authorised under this sub-section shall, pending the election of the Sarpanch, exercise all the powers and perform all the functions and duties of the Sarpanch but shall not have the right to vote in any meetings of the Panchayat;

Provided also that, where the office of the Sarpanch being reserved for a woman, is held by a woman Sarpanch, such motion of no-confidence shall be carried only by a majority of not less than three-fourth of the total number of the members who are for the time being entitled to sit and vote at any meeting of the Panchayat;

Provided also that, no such motion of no-confidence shall be brought within a period of two years from the date of election of Sarpanch or Upa-Sarpanch and before the six months preceding the date on which the term of panchayat expires;

Provided also that, if the no-confidence motion fails, then no motion shall be brought before the passage of time of next two years.”

(c) By further amendment dated 05/03/2020, the abovesaid clause was once again deleted, restoring the position of sub-section(3) to Section 35 which reads as under :-

“(3) If the motion is carried by a majority of not less than three-fourth of the total number of the members who are for the time being entitled to sit and vote at any meeting of the Panchayat the Sarpanch or the Upa-Sarpanch, as the case may be, shall forthwith stop exercising all the powers and perform all the functions and duties of the office and thereupon such powers, functions and duties shall vest in the Upa-Sarpanch in case the motion is carried out against the Sarpanch; and in case the motion is carried out against both the Sarpanch and Upa-Sarpanch, in such officer, not below the rank of Extension Officer, as may be authorised by the Block Development Officer, till the dispute, if any, referred to under sub-section (3B) is decided”.

(d) On 12/06/2020, some of the elected members out of the 12 elected persons, moved a request to the Tahsildar proposing no-confidence motion against the petitioner.

(e) A special meeting was convened on 18/06/2020 which is within the prescribed 7 days limit.

(f) The petitioner spoke against the motion in the special meeting which was thereafter put to voting and the no-confidence motion was carried by 9 votes in favour and 3 against.

(g) The no-confidence motion was thus carried by 3/4th majority.

(h) The District Collector convened a special Gram Sabha meeting on 09/10/2020 for ratification of the no-confidence motion.

(i) The no-confidence motion was ratified by 966 votes in favour and 603 votes against the motion.

(j) The learned Advocate for the petitioner submits that though the ratification rule introduced by the amendment has been once again deleted on 05/03/2020, as the ratification was a subject matter of special Gram Sabha meeting convened on 09/10/2020, the petitioner ought to have been allowed to speak in the said Gram Sabha meeting. She was not allowed to speak.

3. The learned Advocate for the petitioner was specifically called upon to state as to whether the petitioner sought permission to speak or whether she expressed her desire to speak. He answered in the affirmative. When called upon to state as to whether the petitioner complained to the District Collector immediately after the Gram Sabha meeting that she was not allowed to speak. The answer is in the negative.

4. I called upon the learned counsel for the petitioner to point out any provision in the Maharashtra Village Panchayats Act which mandates that though the ratification clause was deleted on 05/03/2020, the same would continue to apply to the no-confidence motion passed against a Sarpanch, who is directly elected. He is unable to point out any such provision from the Maharashtra Village Panchayats Act.

5. It calls for no debate that, once the clause of ratification has been deleted much before the special meeting held to discuss the no-confidence motion against the petitioner, there was no requirement for the ratification to be conducted in the Gram Sabha convened on 09/10/2020. As such, it appears that the District Collector was unaware of the deletion of the said provision. In the absence of such a provision on the date when the no-confidence motion was passed, conducting a ratification Gram Sabha would be inconsequential.

6. The petitioner has lost the confidence of the elected representatives by a 3/4th majority. Even if it is held that the ratification sabha was rightly held, there were 966 votes against the petitioner, which, therefore, indicated that the no-confidence motion passed by 3/4th majority was ratified in the said Sabha. The mandate of democracy needs to be respected.

7. This petition, being devoid of merits, is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)