

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 634 OF 2022**

Sambhaji Pandurang Kapade .. Petitioner  
Versus  
The State of Maharashtra & ors .. Respondents

...

Mr. Nikhil Pawar for the petitioner.  
Mr.C.D.Mali, AGP for the State.

**CORAM: RAVINDRA V. GHUGE, J.**  
**DATED : 20<sup>th</sup> JANUARY, 2022**

**P.C:-**

1 By this petition, the petitioner seeks to challenge the order dated 17/11/2021 passed by the learned Collector, Kolhapur, vide which his Dispute Application No.54 of 2021 challenging the passing of the 'No Confidence' motion against him, has been dismissed.

2 The only contention put forth by the petitioner is that out of the 10 elected office bearers of Gram Panchayat, Savarde Turf Asandoli, Taluka Panhala, District Kolhapur, one member was absent and therefore, the 'No confidence' motion which is said to have been passed with a majority of 8 votes in favour, is

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illegal and unsustainable. It is contended that one member i.e. Sou. Chhaya Dattatraya Sutar was absent from the meeting and yet her vote has been considered in favour of the 'No Confidence' motion against the petitioner.

3 I have considered the strenuous submission of the learned Advocate for the petitioner and the learned AGP on behalf of respondent nos.1, 2 and 3.

4 It is undisputed that a requisition motion was moved by 6 Members on 28/6/2021. The Tahsildar issued the notice to convene a Special Meeting by scheduling the said meeting on 5/7/2021, which is within the 7 days prescribed under the Maharashtra Village Panchayat (Election) Rules, 1959. On 5/7/2021, the 'No confidence' motion was passed with 8 votes in favour and two against the motion. There is no dispute that the petitioner was allowed to speak against the allegations.

5 The learned counsel for the petitioner contends that the charges levelled upon the petitioner are not established and that Sou. Chhaya Sutar was absent and, therefore, her vote could not have been included in favour of the motion.

6 By now, it is a settled position of law that the passing of the 'No confidence' motion is not connected with how many

charges levelled against the Sarpanch/Up-Sarpanch, have been proved in the Special meeting. The 'No confidence' motion which is put to vote in a Special Meeting is not based upon the proving and disproving of the charges in the said meeting. The person against whom the 'No confidence' motion is moved, should express his desire to speak against the motion and if such a desire is expressed, the Tahsildar/Chair person of the special meeting has to permit such a candidate to speak. This is not the grievance of the petitioner.

7           The petitioner relies upon the purported attendance sheet at page 21 of the Petition Paper book in which Sou.Chhaya Sutar, according to the petitioner, has not signed and, therefore, is deemed to be absent. The said contention is, factually a false stand intentionally taken by the petitioner. It is only that Sou. Chhaya Sutar has signed a little above in the column in which she was to sign and therefore, her signature appears below the signature of Sou. Rupali Vinayak Paritkar. She has clearly signed as 'C.D. Sutar' Similar is her signature in the proceeding book at Sr.No.8, clearly indicating that she has remained present in the meeting and has also participated in the meeting.

8           Considering the above, I had granted a pass over to the learned Advocate for the petitioner to take instructions as to whether the petitioner desires to withdraw this petition, since I

noticed that a false stand was taken by the petitioner deliberately and intentionally. On instructions, the learned Advocate submits that the petitioner prays for a reasoned order.

9           Considering the above, I do not find any error in the impugned order passed by the District Collector. The 'No confidence' Motion has been passed by 8 votes in favour and 2 against, out of the total/maximum of 10 members. This petition is therefore, dismissed.

10           Insofar as costs are concerned, as the petitioner has deliberately taken a false stand, I deem it appropriate to impose costs of Rs.25,000/- (Rs. Twenty Five Thousand) which the petitioner shall deposit with the District Collector, Kolhapur, on or before 25/2/2022, failing which respondent no.2 would be at liberty to initiate steps for recovery of the said amount by treating it as arrears of land revenue. Compliance of this direction shall be reported to this Court, on or before 15/03/2022.

11           The learned AGP shall communicate this order in writing to the District Collector, Kolhapur.

**RAVINDRA V. GHUGE, J**