

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

WRIT PETITION NO.1365 OF 2022

(Sunil Rajeshwar Bawane Vs. Vividha Karayakari Sahakari Sanstha Maryadit Korpana,
thr. its Secretary Shri Hemant Shrihari Lodhe and others)

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

Court's or Judge's orders.

Mr. S. P. Kshirsagar, Advocate for Petitioner.

CORAM: ROHIT B. DEO, J.

DATE: 15th MARCH, 2022.

The petitioner has suffered a no confidence motion by an overwhelming majority of 11 for and one (petitioner himself) against and is deemed to have vacated the office of the President, Vividha Karayakari Sahakari Sanstha Maryadit, Korpana (Society). The petitioner approached the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act, 1960 (Act) and withdrew the dispute on the premise that the Co-operative Court does not have the jurisdiction to entertain challenge to no confidence motion.

2. The petitioner is invoking writ and supervisory jurisdiction.

3. The petitioner contends that he was elected as Member of the Managing Committee in the elections held in February, 2020 and on 02.03.2020 he was elected the

Chairman. The petitioner contends that pursuant to requisition given by 11 Members of the Managing Committee/Directors the District Deputy Registrar, Co-operative Societies, Chandrapur issued notice dated 03.02.2022 convening meeting of the Board of Directors on 11.02.2022 to consider the no confidence motion. In the meeting so convened, the no confidence motion was declared passed with majority of 11 for and one against, as noted *supra*. The learned counsel for the petitioner Mr. S. P. Kshirsagar would, relying on a decision of this Court in ***Santukarao Rangnath Sakhare v. State of Maharashtra and others 1996(1) Mh.L.J. 26***, submit that since the mandatory provisions of Section 73-ID of the Act and Rule 57A of the Maharashtra Co-operative Societies Rules, 1961 (Rule) are not observed, the no confidence motion is null and void.

4. The first submission of the learned counsel Mr. Kshirsagar is that none of the Directors much less the requisitionists spoke in favour of the motion, when called upon to do so. The submission merits outright rejection. What is contemplated is that the officer supervising the meeting must afford an opportunity to the Members of the Managing Committee to speak for or against the motion. No Member of the Committee is bound to voice his views and an otherwise validly passed no confidence motion cannot be questioned on the ground that the members did not avail the opportunity of speaking for the motion. Similarly, I note from the proceedings that an opportunity

was granted to all the Members of the Managing Committee/Directors to speak against the motion. None including the petitioner availed the opportunity.

5. Mr. Kshirsagar would then submit that the provisions of Rule 57A(1)(e) which provide that the signatures of the members of the committee who are signed the requisition shall be duly attested by the Chief Executive Officer of the society or Special Executive Magistrate or Executive Magistrate or any gazetted officer of the Government are breached. The record reveals that there is indeed an attestation by not only the Secretary of the Society but by the Notary appointed by the Government. More importantly, such a ground is not even raised in the petition. I need not delve deeper.

6. Mr. Kshirsagar would then argue that it is because the petitioner objected to certain acts and omissions of the other members of the Managing Committee which constitute if not malfeasance, misfeasance, the no confidence motion is moved due to vendetta. I am afraid, once the majority overwhelmingly loses confidence in the office bearers, the motive is hardly relevant and an otherwise valid no confidence motion cannot be subjected to scrutiny on the premise that the intentions of the requisitionists were not pious.

7. Considering that on facts I have not found any violation of any rule, much less a mandatory provision, the decision on which reliance is placed takes the case of the petitioner no further.

8. The petition is dismissed.

JUDGE

NSN