

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

972 WRIT PETITION NO.1971 OF 2023

VENUBAI MANCHAKRAO KHANDAGALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Bagal Suraj R.
AGP for the respondent – State : Mr. S.B. Yawalkar
...

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 17 FEBRUARY 2023

PC :

Heard.

2. The petitioner who is the elected *Sarpanch* is questioning the legality of the notice of no-confidence issued under section 35 of the Maharashtra Village Panchayats Act, 1958 (**the Act**).

3. Learned advocate for the petitioner submits that respondent no. 14 who is one of the signatories of the motion was elected from reserved category and stands automatically disqualified on her failure to produce the caste validity certificate within the stipulated time which according to the petitioner, expired on 17-01-2023.

4. Needless to state that in view of the decision of the Supreme Court in the matter of ***Ganesh Gurkule Vs. Tahsildar, Sinnar and others; (2019) 3 SCC 211***, the issue is no more *res integra* and the disqualification under section 10-1A of the Act is automatic.

5. However, pertinently, going by the provisions of section 35 of the Act, a notice of motion is to be moved by 2/3rd of the total number of members who are for the time being entitled to sit and vote at the meeting of the panchayat. Admittedly, the strength of the panchayat is 13. The motion (Exhibit – E) is signed by 11 members including the respondent no. 4.

6. In view of such state-of-affairs, assuming that the respondent no. 4 stands disqualified still the motion having been moved by requisite number of members it would still be legal. We dispose of the writ petition with liberty to the petitioner to approach the authorities.

7. Parties to act on authenticated copy of this order.

[S. G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

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