

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5875 OF 2023

. Sheela Shivaji Aakoskar .. Petitioner

Versus

1. The State of Maharashtra
Through District Collector, Osmanabad.
2. The Tahsildar, Osmanabad,
Tahsil Office, Osmanabad.
3. Raguveer Kalyanrao Raut
4. Somnath Govardhan Khot
5. Dagdi Damu Aakosalar
6. Sujatarani Prabhakar Raut
7. Daivsheela Giridhar Aakoskar
8. Manisha Vilas Aakoskar .. Respondents

Mr. Amol T. Jagtap, Advocate for the Petitioner.
Smt. D. S. Jape, AGP for Respondent Nos. 1 and 2.
Mr. A. T. Jadhavar, Advocate for Respondent Nos. 3 to 8.

CORAM : KISHORE C. SANT, J.

DATED : 19th AUGUST, 2023.

P. C. :-

. Heard the parties. Taken up for final disposal at the stage of admission by consent of the parties

2. The petitioner's grievance is against the judgment and order passed by the learned Collector, Osmanabad in Grampanchayat Dispute No. 2023/SA Pra/GRAMNI/KA-1/KAVI-296 dated 29.05.2023. The petitioner is a Sarpanch of village panchayat Kolewadi, Taluka and District Osmanabad. No confidence motion was moved against the petitioner on 17.03.2023. The learned Tahsildar conveyed a meeting by notice dated 24.03.2023. The meeting was called on 31.03.2023. In the said meeting, no confidence motion came to be passed. The petitioner thereafter approached the learned Collector by filing an appeal. The learned Collector by way of impugned judgment and order held that the meeting ought to have been held within a period of seven (07) days. Since the meeting was not convened in seven (07) days, he held the said meeting to be illegally held. The appeal came to be partly allowed. The learned Tahsildar is directed to convene a fresh meeting within seven (07) days from receipt of the order passed by the learned Collector.

3. The petitioner is before this Court against the said order mainly on the ground that, learned Collector has no authority to direct the learned Tahsildar to hold fresh meeting pursuant to no confidence motion which was already moved. He relies upon the judgment delivered by the Full Bench of this Court in the case of **Viswas Pandurang Mokal Vs. Group Gram Panchayat Shihu & Ors.** reported in

2011 (3) Bom.C.R.495 wherein, this Court has considered the provisions of sub section (3-D) of Section 35 of the Maharashtra Village Panchayats Act. This Court considered the power of learned Collector. This Court held that, the dispute before the learned Collector would be as to whether the motion of no confidence was validly passed or not. Therefore, learned advocate submits that, the learned Collector could have decided the appeal on its own and in no case he could have directed to hold fresh meeting.

4. Learned advocate for respondent Nos. 3 to 8 submits that, the said judgment of the Full Bench of this Court is of the year 2011. By virtue of amendment in 2012 sub section (3-D) of Section 35 of the Maharashtra Village Panchayats Act is now deleted. He relies upon the judgment of the Full Bench of this Court in the case of **Raosaheb Mallapa Magdum and others Vs. Vandana Shivajirao Mane and others** reported in **2019 (5) Mh.L.J. 844** wherein, it is held that, even if the meeting is held after seven (07) days, still if the motion is validly passed, the same cannot be said to be legal.

5. This Court finds that, without expressing any opinion the petition can be partly allowed by directing the learned Collector to decide the appeal filed by the petitioner on its own merits. Hence, the following order is passed.

6. The petition is partly allowed.
7. The impugned judgment and order is quashed and set aside. The learned Collector is requested to decide the appeal on its own merits by considering the legal position. The learned Collector is expected to decide the appeal within a period of one (01) month from the date of receipt of this order.
8. The writ petition is disposed off.

(KISHORE C. SANT, J.)

PS.B.