

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10703 OF 2023

Shri. Sagar Ananda Savardekar ...Petitioner

V/s.

State of Maharashtra & Ors. ...Respondents

Mr. Tanaji Mhatugade for Petitioner

Ms. M.S. Srivastava, AGP for State- Respondents

Nos. 1 to 3.

CORAM: MADHAV J. JAMDAR, J.

DATE: 28th August 2023

P.C.:

1. Heard Mr. Mhatugade, learned Counsel appearing for the Petitioner and Ms. Srivastava, learned AGP appearing for the Respondent Nos. 1 to 3.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the Petitioner is challenging the legality and validity of the order dated 11th August 2023 passed by the District Collector, Kolhapur in Dispute Application No. 00059 of 2023.

3. By the impugned order, the District Collector, Kolhapur has held that no confidence motion passed against the Petitioner on

12th May 2023 is in accordance with the procedure of the Maharashtra Village Panchayat Act, 1958 and resultantly the said No Confidence Motion is upheld.

4. It is the contention of Mr. Mhatugade, learned Counsel appearing for the Petitioner that on that day i.e. on 12th May 2023, the Petitioner was admitted in the hospital and he has sent the relevant medical papers alongwith his application dated 12th May 2023 to the Gramvikas Adhikari. The said application was sent through one Santosh Gosavi and Saheblal Shaikh.

5. The learned Collector, in the impugned order has stated that no evidence is produced by the Petitioner that he has submitted the application seeking an adjournment of the meeting.

6. Learned Counsel appearing for the Petitioner has very strongly relied on the documents annexed at Exhibit 'C'. The said documents are as follows:

- (i) Application dated 12th May 2023 of the Petitioner;
- (ii) ECG;
- (iii) Prescription issued by Dr. Navnath Magdum of Magdum Hospital and receipt issued by the said hospital.

7. Although the application dated 12th May 2023 states that the Petitioner had been admitted in the hospital, documents of

said hospital clearly show that the same are OPD case papers. There is nothing on record to substantiate the contention of the Petitioner that he was admitted in the hospital. In fact, affidavits of said Santosh Gosavi and Saheblal Shaikh are also not filed before the learned Collector.

8. Mr. Tanaji Mhatugade, learned Counsel appearing for the Petitioner has failed to point out any reliable documentary evidence to substantiate the Petitioner's contention that the said application seeking time on the ground that the Petitioner was hospitalised, has been handed over to Gramvikas Adhikari on 12th May 2023. There is nothing on record to show that the observations of the Collector in the impugned order to the said effect are incorrect.

9. The learned Collector in the impugned order has stated that there are total 11 elected members of the Gram Panchayat, Savarde (Budruk), out of which, 9 members were present and 2 were absent i.e. including the present Petitioner. All 9 members, who were present voted in favour of said no confidence motion.

10. Mr. Mhatugade, learned Counsel appearing for the Petitioner has relied on the decision of a learned Single Judge of this Court in the matter of **Manoj Ghanshyamdas Banode Vs. Presiding Officer/Tahsildar, Dhamangaon Rly. & Ors.**¹. In

¹ 2019 (2) Bom. C.R. 249 : 2019 SCC OnLine Bom 85

the facts of that case, the learned Single Judge has held that from the evidence on record, it was not shown that the Petitioner was granted opportunity to explain the charges levelled against him and therefore, deprived the members of Gram Panchayat to take an informed decision while voting on motion of no Confidence. The said decision has no application to the facts of the present case. Therefore, this is not a case where interference of this Court is warranted under Article 227 of the Constitution of India.

11. Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

(MADHAV J. JAMDAR, J.)