

Dusane

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

WRIT PETITION NO.11873 OF 2023

Samadhan Shivaji Gore ...Petitioner

V/s.

The Collector, Solapur & Ors. ...Respondents

Mr. Shubham Babar i/by Mr. Sushant S. Prabhune for the
Petitioner.

Mr. A.P. Vanarase, AGP for State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 20th September, 2023

P.C. :

1. Not on board. Taken on board.
2. Heard Mr. Shubham Babar, learned Counsel appearing for the Petitioner and Mr. A.P. Vanarase, learned AGP appearing for the Respondent- State.
3. The Petitioner has challenged the order dated 29th August 2023 passed by the Collector, Solapur in Gram Panchayat Dispute Application No.18 of 2023, by which the dispute filed by the Petitioner under Sub-Section 3(B) of Section 35 of the Maharashtra Village Panchayats Act, 1959 (for short "Said Act") is dismissed.

4. The Petitioner was the Sarpanch of Gram Panchayat, Morochi, Taluka Malshiras, District Solapur. The total number of members of the said Gram Panchayat are 13 and the notice dated 29th March 2023 of motion of no confidence was issued by 12 members of the said Gram Panchayat. As per the said notice, Tahsildar conveyed the meeting in accordance with Sub-Section 2 of Section 35 of the said Act on 5th April 2023.

5. On 5th April 2023, total 13 members attended the said meeting out of which 10 members voted in favour of the Motion of No Confidence, which is admittedly more than the mandatory minimum requirement of three-fourth majority.

6. The only contention raised by the learned Counsel appearing for the Petitioner is that the notice of Motion of No Confidence is dated 29th March 2023 and the meeting was called on 5th April 2023 which is beyond the mandatory period of seven days prescribed in Sub-Section (2) of Section 35 of the said Act. It is the submission of the Petitioner that as per the requirement of Sub-Section 2 of Section 35 of the said Act, it is obligatory on the part of the Tahsildar to convene the said meeting for considering Motion of No Confidence at the office of Gram Panchayat within 7 days from the date of receipt by him of the notice contemplated under Sub-Section 1 of Section 35. He submits that as the notice is dated 29th March 2023, the

meeting which came to be called on 5th April 2023 is beyond the said period of 7 days.

7. However, the learned Collector while dismissing the Dispute Application filed by the Petitioner has relied on the decision of this Court in the matter of **Seema Ashok Kamble Vs. Collector, Pune**¹ In the said case, it has been held on the basis of the Supreme Court decision in the case of **Tarun Prasad Chatterjee V. Dinanath Sharma**² and earlier judgments that the day of receipt of the said notice under Section 35(1) of the said Act will have to be excluded while computing a period of 7 days. It is an admitted position that if the said date i.e. 29th March 2023 is excluded, then the special meeting convened on 5th April 2023 is within the period of 7 days.

8. Hence, there is no substance in the present Writ Petition. The Writ Petition is dismissed, however, with no order as to costs.

(MADHAV J. JAMDAR, J.)