

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

WRIT PETITION NO. 2465 OF 2023

Usha Satish Kathole__ Vs. __ The Collector, Akola and ors

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

Court's or Judge's orders

Mr.Ram Karode, Advocate for the petitioner.
Mrs. M.A.Barabde, AGP for respondent nos.1 & 2.
Mr. S.D.Chopde, Advocate for respondent nos. 3 to 8

CORAM : AVINASH G. GHAROTE, J.
DATE : 03/05/2023

1] Heard Mr. Karode, learned counsel for the petitioner.

2] The petition challenges the order dated 25.3.23 passed by the respondent no.1/Collector, Akola, rejecting the dispute raised by the present petitioner against the 'no confidence motion' dated 16.2.2023 against the present petitioner (pg.46).

3] It is contended that Gram Panchayat, Jaulka, Tq. Akot, Dist. Akola, comprised of 7 persons including the Sarpanch and since motion of 'no confidence' was moved against the Sarpanch, the same ought to have been in consonance with the provisions of law applicable thereto. It is contended that 4 members of the Gram Panchayat were elected from reserved category and therefore in view of mandate of Section 10-1A of the Maharashtra Village Panchayat Act and specifically the second proviso,

the caste validity certificate ought to have been submitted within the period of twelve months from the date of declaration of the result of the election, which period has been extended till 17.1.2023. It is contended that respondent nos. 4, 6, 7 & 8, who are elected to the reserved constituency did not submit their validity certificates to the Authority and therefore, as on 16.2.2023, the date of the meeting to consider the “no confidence motion”, the status of the respondent nos. 4, 6, 7 & 8 could no longer be said to be that of elected members, as the effect of the second proviso to Section 10-1A was to have a deemed effect of termination of the election retrospectively and disqualification from being a member. It is therefore contended that since the Respondent nos. 4, 6, 7 & 8 were disqualified, that left only three members, which could not complete the quorum for such a meeting and therefore, the entire proceedings conducted in the meeting dated 16.2.2023 were *non-est* and the resolution passed therein also was of no effect. It is contended that this position was brought to the notice of the Collector, which is reflected from the memo of the dispute under Section 35(3B) of the MVP Act, where this ground has been raised in para 6 (pg.32), however

the same has not been considered by the Collector at all while passing the impugned order.

4] When Mr. Chopde, learned counsel for respondent nos. 3 to 8 was asked to make a statement as to on what date the caste validity certificates were submitted to the Tahsildar, as it is contended by Mr. Karode, learned counsel for the petitioner that they were so done on 21.2.2023, he is unable to point out the date.

5] In that view of the matter, the impugned order cannot be sustained and is hereby quashed and set aside and the matter is remanded back to the respondent No.1 to pass an order afresh after taking into consideration the aforementioned plea regarding the effect of the second proviso to Section 10-1A of the MVP Act.

6] The parties shall appear before the respondent no.1 on 8.5.2023.

7] The proceedings before the respondent no.1 shall be decided by him within the period of 30 days thereafter.

8] The petition is allowed in above terms.
No costs.

JUDGE