



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

WRIT PETITION NO. 4785 OF 2023

SATYABHAMA S/O SAMADHAN SURADKAR

VS.

THE ADDITIONAL COLLECTOR, BULDHANA AND OTHERS

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Manish Shukla, Advocate for petitioner.
Mrs. M. A. Barabde, AGP for respondent Nos.1, 2 & 13.
Mr. R. V. Gahilot, Advocate for respondent Nos. 3 to 11.

CORAM : ANIL S. KILOR J.

DATE : 18/08/2023

‘No Confidence Motion’ was passed by 10 votes against the petitioner in a Gram Panchayat of 13 members and dismissal of challenge raised to such ‘No Confidence Motion’ by the Additional Collector vide impugned order dated 19/07/2023, is under challenge in this writ petition.

2. The only challenge raised is that, notice of the meeting of No Confidence Motion was not properly served upon the petitioner. It is submitted that the Gram Panchayat record shows that the house No.1374 stands in the name of husband of the petitioner and she stays with her husband, whereas,

notice was pasted on the house No.1375, which is adjacent house which stands in the name of mother-in-law of the petitioner. It is further submitted that as the petitioner is not in talking terms with mother-in-law, the notice pasted on the house of mother-in-law can not be treated as valid service.

3. Contrary to this, the learned AGP has pointed out that before pasting the notice, the Peon of the office of Tahsildar made a phone call to the petitioner informing about such notice and as she was not present, the other adult members of the family of the petitioner were requested to accept the notice and on refusal by them to accept, it was pasted on the house of the petitioner.

4. Learned AGP has drawn attention of this Court to the photographs showing that while pasting the notice of the meeting of no-confidence motion, the daughter-in-law of the petitioner was present on the spot taking the photographs of the notice.

5. Further there are documents showing that there is no separate electricity meter to the house property No.1374 and 1375. Similarly, property card of both the houses, is the same.

6. Accordingly, it is submitted that the grounds raised by the petitioner is highly technical and the fact remains that, the majority was not with the petitioner and the resolution was passed unanimously by all the 10 members who were present in the meeting in relation to Gram Panchayat having 13 members.

7. A co-ordinate bench of this Court in the case of *Prabhawati Vijaykumar Khivsara vs. State of Maharashtra and others, 2008(2) Mh. L. J. 274* has observed as under :-

“19. The Division Bench of this Court in the case of *Smt. Annapurnabai Ajabrao v. Annapurnabai Anandrao*, reported in 7967 Mh.LJ. NOC 36, while considering the challenge to the regularity of the proceedings of the meeting held to consider the resolution of no-confidence motion against the Sarpanch, observed thus :

“ Even if it were to be assumed that there was some technical flaw in the proceedings of the meeting or in transmission of the results of the meeting to the Panchayat Samiti, we do not see how that could entitle the petitioner to claim to continue as Sarpanch of the Gram Panchayat. A Gram Panchayat is essentially a democratic institution which must be run on democratic principles. When the majority of the members have clearly expressed that they do not desire the petitioner to be their leader and Sarpanch, appropriate attitude of the petitioner as a person working for democracy whatever have been to tender her registration straightway. At any rate, it does not behave of democratic spirit to challenge the decision of the majority who unmistakably declared their want of confidence in their erstwhile leader.

Democratic principles as has also a sense of self respect should have been impleaded the petitioner and persons situated in similar circumstances to graciously submit to the decision of the majority and to walk out of the Gram Panchayat. Notice raising frivolous contention and forcing herself on the democratic institution it does not want her to hold that position.”

20. The Division Bench of this Court, in the case of *Nimba Rajaram Mali v. Collector, Jalgaon and Ors.* reported in 1998(3) Mh.L.J.204 = 1999(1) Bom.C.R. 546, followed the aforesaid Judgment in the case of *Smt.Annapurnabai Ajabrao v. Annapurnabai Anandrao* (referred supra) and observed thus :

“ In a democratic society what is important is the will of the majority and the elected representatives must honour the will of the majority. It is immaterial to analyse and debate on the reasons behind the will of the majority or the specific reasons for such will being expressed. The will of the majority is of paramount importance and it must be respected by all elected representatives responsible for the governance of such democratic institutions. As observed by the Apex Court in the case of Babubhai (supra), resolution of No Confidence Motion is different from Censure Motion and such a resolution cannot be faulted on the ground that there were no reasons or reasons were vague and lacked detailed specifications. Once the resolution of No Confidence Motion is passed by a clear majority and in keeping with the requirements of the concerned statutory provisions, the person against whom such a resolution is passed, must honour the will of the majority and make way for the new election of his successor. Unless it is shown that while passing such a resolution of No Confidence Motion, there was flagrant violation of any of mandatory procedure laid down, such a resolution cannot be interfered with by the Court or statutory authorities adjudicating such disputes.”

8. In the above referred backdrop, I have perused the record and the impugned order.

9. Though the petitioner is claiming that she is residing in house No.1374, there is no document filed by the petitioner to show that she is residing in a house No.1374. Whereas, record shows that house Nos.1374 and 1375 are adjacent to each other. There is only one electricity meter to both the house property. In addition to this petitioner is not disputing that house No.1375 stands in the name of her mother-in-law. She further does not dispute that she received a phone call from the concerned Peon informing about the notice. Moreover the photographs filed on record shows that while pasting the notice, the daughter-in-law of the petitioner was present on the spot.

10. Therefore, I find substance in the Panchnama, which shows that initially a phone call was made to the petitioner and she informed to the concerned person that she is going to Chikhali, thereupon, he tried to serve the notice on adult members of the family of the petitioner and on refusing to receive the same, the notice was pasted on house No.1375.

11. The above referred facts are sufficient to show that the petitioner is trying to take an undue advantage of the Gram Panchayat records, which

shows that house No.1374 stands in the name of husband of the petitioner and house No.1375 stands in the name of her mother-in-law by pointing out that the notice was not pasted on the house of her husband, but on the house of mother-in-law.

12. However, one thing cannot be ignored that both the houses are adjacent and having same property number and electricity supply.

13. In that view of the matter considering the fact that the motion was passed by 10 votes. In a democratic society will of the majority is important and elected representative must honour the will of the majority. I do not find any merit in the submissions of the learned counsel for the petitioner that the notice was not properly served upon the petitioner.

14. Accordingly, the Writ Petition is dismissed. No costs.

[ANIL S. KILOR J.]