



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

WRIT PETITION NO. 381 OF 2024

Amol Ashok Autade,
Age 36 years, Occu. Agri.,
R/o. At Present Krushnapur-Gormala,
Taluka Bhoom, District Dharashiv .. Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary
Rural Development Department,
Mantralaya, Mumbai - 32
 2. The Collector, Dharashiv
 3. The Tahsildar and Returning Officer,
Bhoom, District Dharashiv
 4. Gram Panchayat, Krushnapur-Gormala,
Taluka Bhoom, District Dharashiv
 5. Sarika Subhash Autade, Age 45 years,
 6. Shalan Bharat Pandhre, Age 60 years,
 7. Gangubai Bhika Bansode, Age 70 years,
 8. Sunita Govardhan Autade, Age 70 years,
 9. Kundlik Khandu Chormale, Age 60 years,
 10. Shalan Shivaji Shelke, Age 65 years,
- Respondents No.5 to 10 Occu. Agri./Household,
R/o. At post Krushnapur-Gormala, Taluka Bhoom,
District Dharashiv .. Respondents

Mr. Nagesh S Dalave, Advocate for the Petitioner;
Mr. A. S. Shinde, A.G.P. for Respondents No.1 to 3;
Mr. Amol T. Jagtap, Advocate for Respondents No.5 to 10

CORAM : S. G. MEHARE, J.

DATE : 09-01-2024

PER COURT :-

1. Heard the learned counsel for the petitioner and the learned counsel for respondents/caveator.
2. Issue notice to the respondents.
3. Learned A.G.P. waives service of notice for respondents No.1 to 3 Mr. Jagtap, learned counsel waives service of notice for respondents No.5 to 10.
4. Learned counsel for the petitioner submits that the Tahsildar did not serve a seven clear day's notice of the meeting of a no-confidence motion dated 08.12.2023 to the petitioner. It was served on 10.12.2023, and the meeting was convened on 13.12.2023. She has vehemently argued that as per Section 35(2) of the Maharashtra Village Panchayats Act, 1958 (for short, "the Act") seven clear days notice is required to the Sarpanch for convening the special meeting for no-confidence motion. She relied on the case of **Amol Pandurang Godbole Versus Collector, Nanded, District and Others, 2022 SCC OnLine Bom 117** and argued that the reasons for the no-confidence motion were not discussed in the meeting, and the subjects were also not intimated to the petitioner. The Collector did not consider the case of **Amol** (*supra*) and erroneously held that seven clear day's notice in advance is not required. She also submitted that

the resolution and the order of the Collector are perverse and against the provisions of the law. There was no reason to move a no-confidence motion against the petitioner. Hence, the petition may be allowed.

5. Learned counsel for respondents No.5 to 10 and learned A.G.P. submit that Section 35 (2) of the Act specifically provides that within seven days from the date of receipt of the notice of no-confidence motion, the Tahasildar has to convene a special meeting of the panchayat. The wording of Sub-Section (2) of Section 35 of the Act makes it clear that the notice of no confidence motion shall be convened within seven days, and not seven days' notice is required. For a no-confidence motion, no allegations and subjects are required. For a no-confidence, only a resolution by the required majority is sufficient. The petitioner did not speak in the proceeding and the meeting. The resolution is legal, correct and valid. The order of the Collector impugned before this Court is also legal and correct. The case of **Amol** (*supra*) was about the directly elected Sarpanch. Therefore, the said ratio is not applicable in the case at hand.

6. Perused the papers.

7. The first legal question raised was a seven clear days notice of the meeting to be convened for a no-confidence motion. To answer the legal issue raised, Sub-section (2) of Section 35 of the

Act is re-produced for ready reference, which reads thus;

"35. Motion of no confidence.

(2) Within seven days from the date of receipt by him of the notice under sub-section (1), the Tahasildar shall convene a special meeting of the panchayat at a time to be appointed by him and he shall preside over such meeting. At such special meeting, the Sarpanch or the UpaSarpanch against whom the motion of no confidence is moved shall have a right to speak or otherwise to take part in the proceedings at the meeting (including the right to vote)."

8. The plain reading of Sub-section (2) of Section 35 of the Act explicitly states that 'within seven days' from the date of receipt of notice of no confidence by the members, the Tahasildar is required to convene the meeting. The words 'within seven days' in Sub-section (2) of Section 35 of the Act do not indicate that the seven days clear notice of no-confidence motion should be served upon the Sarpanch or Up-sarpanch. The Court is of the view that there is no legal ground for believing that seven clear days' notice is required to be served on the person against whom a no-confidence motion is moved. The ratio laid down in the case of **Amol** (supra) was against the directly elected Sarpanch. The members of the village panchayat elected the present petitioner as Sarpanch. For passing a no-confidence motion, no subject or allegations are

required to be mentioned or discussed. The law is well settled on that point. The resolution of no confidence was passed by a majority of the members who were entitled to sit in the meeting. The Collector did not commit illegality in confirming the resolution of no confidence. The resolution is legal and correct. Hence, there is no substance in the petition.

9. For the above reasons, the writ petition is dismissed at admission stage.

(S. G. MEHARE)
JUDGE

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