

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1510 OF 2024

Ganesh Baburao Matang

VERSUS

State Of Maharashtra Through Secretary And Others

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Advocate for the Petitioner : Mr. Kanade Angad Lala

AGP for Respondent/State : Mrs. M.L. Sangit

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CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 07, 2024

PER COURT:-

1. Learned counsel Mr. Nitin K. Chaudhari is appearing for respondent nos.5 to 8. Office to accept his vakalatnama.

2. Heard learned counsel for the petitioner, learned AGP for the State and learned counsel for respondent nos.5 to 8, who had moved a representation to respondent no.3 for calling a meeting for no-confidence motion.

3. After hearing the respective counsels, the following question of law arises for consideration:

(I) Whether the meeting called on the representation of the village panchayat member for a no-confidence motion could be called since it was called within a period of two years from the date of the election of the Sarpanch?

4. It is not in dispute that the petitioner was elected as a Village Sarpanch on 15.07.2022.

5. Proviso four to sub-section (3) of Section 35 of the Maharashtra Village Panchayats Act, which is relevant, reads thus:

“[Provided also that, no such motion of no-confidence shall be moved within a period of two years from the date of election of *Sarpanch* or *Upa-Sarpanch* and before six months preceding the date on which the term of *panchayat* expires:”

6. The representation calling the no-confidence motion was submitted to respondent no.3/Tahsildar by the village panchayat member on 31.01.2024. Respondent no.3 has issued the notice to the petitioner dated 31.01.2024, calling upon him to remain present in the meeting scheduled on 07.02.2024.

7. There is no quarrel that the representation was made within a period of two years from the date of election of the petitioner as Sarpanch. Hence, the representation itself is illegal. Consequently, the notice issued calling the meeting by respondent No.3 for a no-confidence motion was illegal. Therefore, the petition deserves to be allowed. Hence, the following order :

ORDER

- (i) The petition is allowed.
- (ii) Notice dated 31.01.2024 issued by respondent No.3 calling upon a special meeting for a no-confidence motion against the petitioner stands quashed and set aside as it is illegal and void.

(3)

(iii) No order as to costs.

(S.G. MEHARE, J.)

Mujaheed//