



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 WRIT PETITION NO. 673 OF 2024
WITH
CIVIL APPLICATION NO. 3050 OF 2024
IN WP/673/2024

SHOBHABAI EKNATH WADWALE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Petitioner : Mr. Patale A. N.
AGP for Respondent/s-State : Mr. A. S. Shinde.
Advocate for respective Respondent/s : Mr. A. D. Kotkar.
Advocate for respective Respondent/s : Mr. A. A. Mukhedkar.

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CORAM : S. G. MEHARE, J.
DATE : 10.04.2024

PER COURT :-

1. Heard the learned counsel for the petitioner.
2. The respondents have filed the application for vacating the stay. Considering the issue involved in this case, the matter may be disposed of finally. Hence, by consent heard finally.
3. The Upa-sarpanch has preferred this writ petition against the order of the Collector, Nanded confirming no confidence motion passed against her.
4. Learned counsel for the petitioner has vehemently argued that no person shall be punished for the offence which

he has not committed. He has vehemently argued that the charges levelled against the petitioner for moving no confidence motion were not pertaining to her duties. If she being a Upa-Sarpanch, she was not responsible to call the meeting, when the Sarpanch is present. The respondents had no case that the Sarpanch was absent. The allegations levelled against her were unfounded, and therefore, malicious no confidence motion was moved and passed against her. He relied on the case of ***Shivkant Haribhau Bangar Vs. The Gram Sevak and others***, Writ Petition No.534 of 2010 with other writ petitions, decided on 06.04.2022. He has referred to paragraph No.20 of the said judgment and argued that the person against whom the motion for no confidence motion is moved is entitled to know as to what are the charges against him. Reading these findings between the line, he tried to put the case that the charges levelled against the office bearers should have been considered while passing the no confidence motion. He prayed that since the charges levelled against the petitioner were not related to her duties as a Upa-Sarpanch, the no confidence motion based on those charges is unfounded, baseless and illegal. Hence, the writ petition deserves to be allowed.

5. Per contra, learned counsel for the contesting respondent submitted that the charges levelled against the petitioner in a meeting of no confidence motion need not be proved. Expressing no confidence is sufficient. The will of the majority would prevail over. There are no other grounds that affected the rights of the petitioner. She has exercised her right to speak in a meeting of motion of no confidence. The respondents passed against her is legal, proper and correct and within the four corners of the law.

6. To bolster his arguments, he relied on the case of *Navnath Gangadhar Dhockcaule Vs. The State of Maharashtra and others ; 2016 DGLS (Bom.) 1838 Bombay High Court.*

7. Whether the charges are to be proved against the office bearer for no confidence motion is essential or not has been answered by the Supreme Court in case of *Babubhai Muljibhai Patel Vs. Nandlal Khodidas Barot and others ; (1974) 2 SCC 706*. The law is well settled that expressing no confidence against the Sarpanch and Upa-Sarpanch of the village is sufficient. The grounds on which the no confidence motion is moved need not be proved. This Court in the case of Navnath (supra) in paragraph No.13 has observed that in a democratic society the will of the majority is important 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 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 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 the 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 dispute.

8. The right to hear the present petitioner was granted. She had denied the grounds of no confidence moved against

her in the meeting. The meeting was convened strictly in accordance with the requirements of Section 35 of the Village Panchayats Act.

9. The case of Shivkant relied on by the petitioner was on different issue. In that matter, the dispute was about issuing a common notice of no confidence motion against Sarpanch and Upa-Sarpanch. This Court in the above case observed that the office bearer against whom the action is proposed must know the allegations. The ratio laid down in that case is based on different facts. Hence, does not assist the petitioner.

10. No mandatory provisions were violated as laid down in the Village Panchayats Act to pass a no confidence. The writ petition is devoid of merit. Hence, the writ petition stands dismissed.

11. No order as to costs.

12. Civil Application stands disposed of.

(S. G. MEHARE, J.)

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vmk/-