



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3803 OF 2023

Venubai Manchakrao Khandagale

VERSUS

The State Of Maharashtra Through Collector And Others

- Mr. U. B. Deshmukh, Advocate for the Petitioner
- Mr. P. D. Patil, AGP for the Respondent Nos. 1 to 3 and 5/State
- Mr. B. A. Shinde, Advocate for Respondent Nos. 6 to 8 and 10 to 12, 14, 15 and 16

CORAM : KISHORE C. SANT, J

DATE : SEPTEMBER 09, 2024

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. By consent of the parties, heard finally.

2. Petitioner has approached this Court challenging the judgment and award passed by the learned Collector, Parbhani dated 23.03.2023 in Grampanchayat Dispute No.2023/Sa.Pra/Grapani-2/C.No.06. Learned Collector by way of impugned judgment and order has rejected the dispute filed by the present Petitioner.

3. Petitioner came to be elected as a Member of Grampanchayat, Adgaon (Bazar), Tq. Jintur, Dist. Parbhani. She also thereafter came to be elected as Sarpanch of the village. Respondent No. 8 and other members moved a no confidence motion against the Petitioner. Pursuant to the motion, a meeting was held on 20.02.2023 by incharge Tahsildar. In the said meeting, out of 13 members 11 were present along with Respondent No. 8. Incharge Tahsildar after putting the motion for voting held that the motion was passed by majority of 3/4th. Out of 11 members, all of the members voted in favour of the motion. The said proceeding came to be challenged by raising dispute on three grounds: 1. Respondent No. 8, who was instrumental in bringing the motion, was on the date was disqualified to be a member. This Respondent had contested the election from the post of reserved for schedule caste. On the date of election she was not holding certificate. The Government extended the time to furnish the certificate from time to time. Last such extension was till 17.01.2022. Notice of motion was moved on 14.02.2022. On 21.02.2022 show caused notice

had published to all the persons who were deemed to have become disqualified for non submission asking as to why she could not be declared as disqualified. Second ground he submits that there is interpolation in the recording of proceeding of the meeting dated 20.02.2023. The third ground is that the meeting was not conducted by the Tahsildar but was by incharge Tahsildar. He thus submits that there is no delegation of power permitted under the Maharashtra Village Panchayat Act (for short '**the Act**').

4. The learned Advocate for Respondent Nos. 4 to 13 vehemently opposed the Petition. He submits that assuming that Respondent No. 8 was disqualified, even excluding her name the motion is passed by 11 votes which comes to $3/4^{\text{rd}}$ majority. As on the date of voting taking contention of the Petitioner that the Respondent was disqualified, the persons entitled to sit and vote were only 12. Thus, out of 12, 9 votes are required to complete $3/4^{\text{th}}$ majority. About delegation of powers, he submits that the incharge Tahsildar cannot be said to be the delegatee of Tahsildar. The Collector has clearly

discussed it and has passed the order. About the interpolation, he submits that the only right to place of signature of one member Asha was not at the right place, that cannot be said to be interpolation.

5. Learned AGP also supports the judgment.

6. This Court has gone through the judgment of the learned Collector. The Collector had considered that the Tahsildar who conducted the meeting was incharge Tahsildar as the Tahsildar was on leave on that day and, therefore, there is no question of delegation of power. The meeting itself is held by the Tahsildar having charge. About the majority, he held that had there been 13 members entitled to sit and vote, it is only in that case the majority was 9.75 and thus, it should have been passed by 10 members. Herein this case, 11 persons have voted in favour of the motion. The learned Collector has rightly considered this aspect considering the original record of the meeting.

7. The learned Advocate for the Petitioner at this stage relied upon the judgment of the Hon'ble Supreme Court in case of Valiammal Rangarao Ramachar vs. Muthukumarswamy Counder, 1982 (3) SCC 508. The said case arises out of where the interpolation was established in the very document which give rise to the suit. In this case, no such interpolation is pointed out and shown which would affect the proceeding of motion.

8. Considering all above, this Court does not find any case made out for interference in the impugned judgment and award. The Writ Petition, therefore, stands dismissed. No order as to costs. Rule stands discharged.

(KISHORE C. SANT, J.)