



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4897 OF 2024

Sudam Ravindra Desle,
Age 32 yrs., Occ. Agri.,
R/o Deur (Kh),
Tq. & Dist. Dhule.

... Petitioner

... Versus ...

- 1 The Collector,
Dhule.
- 2 The Tahsildar,
Dhule.
- 3 Sou. Poonam Ganesh Desle,
Age 26 yrs., Occ. Member,
Village Panchayat Deut (Kh),
R/o Deur (Kh),
Tq. & Dist. Dhule.

... Respondents

...

Mr. D.S. Bagul, Advocate for petitioner

Mr. P.D. Patil, AGP for respondent Nos.1 and 2

Mr. N.L. Choudhari, Advocate for respondent No.3

...

CORAM : S.G. CHAPALGAONKAR, J.

RESERVED ON : 01st JULY, 2024

PRONOUNCED ON : 08th JULY, 2024

ORDER :

1 The petitioner impugns with the orders dated 15.03.2024 and 26.03.2024 passed by learned Collector, Dhule on applications of petitioner in pending Appeal u/s 35(3)(B) of the Maharashtra Village Panchayats Act, 1959.

2 Mr. D.S. Bagul, learned Advocate appearing for the petitioner submits that on 09.12.2020 elections of Village Panchayat Deur (Kh) were held. The petitioner got elected as Member of Village Panchayat. Thereafter during meeting dated 04.01.2021 he was unanimously elected as Sarpanch of Village Panchayat. The Village Panchayat consists of nine elected members. Respondent No.3 and other six members submitted requisition to Tahsildar, Dhule for no confidence motion. The Tahsildar, Dhule, in response to the requisition, issued notice under Section 35(3)(B) of the Maharashtra Village Panchayats Act. The petitioner was served with the notice of motion of no confidence. The meeting was convened on 29.02.2024 at the office of Panchayat and resolution of no confidence came to be passed on 07.03.2024 against the petitioner, by seven against two votes.

3 The petitioner disputed the validity of the no confidence motion by referring dispute to the Collector. The petitioner had also filed an

application seeking stay to the resolution as proposal of no confidence was based on manipulated signatures. The petitioner was not given opportunity to explain his stand. The process leading to the meeting of no confidence and consequential resolution is contrary to the meeting rules. Similarly, petitioner had filed another application for amendment in appeal and permission to add the members of Village Panchayat as party respondents. However, learned Collector rejected both the applications vide impugned orders dated 15.03.2024 and 26.03.2024 respectively.

4 Mr. D.S. Bagul would submit that there is serious dispute as regards to the signatures of members on the notice of no confidence. Two members have filed the affidavit denying their signatures on the proposal of no confidence dated 28.02.2024. Smt. Anjirabai Shantaram Borse tendered her affidavit stating that signatures were obtained on blank papers and misused by respondent No.3. Similarly, Mr. Mali Padam Ananda signs in English but his signature appears in Marathi on the proposal form.

5 Per contra, Mr. N.L. Choudhari, learned Advocate for respondent No.3 submits that no confidence motion has been passed by majority against the petitioner. The Collector is ceased with the Appeal filed by the petitioner. The contentions raised in the writ petition as regards to merit of no confidence motion and procedural aspects leading to the no confidence

motion can be examined by the appellate authority. He would, therefore, submit that the learned Collector has rightly rejected the prayer for interim stay so also application seeking amendment in the appeal.

6 Having considered submissions advanced, it is apparent that the notice of no confidence motion was moved by members of Village Panchayat against petitioner and same has been passed by majority. The petitioner disputed validity of motion carried, under Sub Section (3) of Section 35, before the District Collector. The clause (3)(B) of Section 35 of the Maharashtra Village Panchayats Act prescribes that -

“The Sarpanch or the Upsarpanch, as the case may be, desires to dispute motion carried out under sub-section (3) shall refer the dispute to the Collector, who shall decide it within 30 days from the date of the receipt and his decision shall be final.”

The sub-clause (3) of Section 35 would reveal that -

“As long as appeal against no confidence motion is pending before the Collector, the Sarpanch will have to forthwith stop exercising all the powers, however, the office of Sarpanch shall deemed to have been vacant only from the date of decision of dispute in appeal.”

The harmonious reading of aforesaid provisions depicts that the petitioner cannot exercise his powers or function as a Sarpanch once

resolution of no confidence is passed, however, till decision of the Collector in appeal the post of Sarpanch cannot be deemed to have fallen vacant.

7 Apparently, the statutory provisions will have to be given full effect. The learned Collector was, therefore, justified in refusing to grant stay to the resolution of no confidence. Similarly, in absence of statutory mandate requiring addition of members of Village Panchayat as party in appeal/reference, such amendment cannot be allowed. No fault can be found in the orders passed by District Collector. However, it would be in the fitness of things to direct learned Collector to decide pending appeal within prescribed period of 30 days from the date of this order, in tune with provisions contained under Maharashtra Village Panchayats Act.

8 It is made clear that all points and contentions are kept open.

9 Hence, writ petition stands dismissed with aforesaid directions.

(S.G. CHAPALGAONKAR)
JUDGE