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34wp11204.23

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

34 WRIT PETITION NO. 11204 OF 2023

KHANDERAO NARAYAN PHULARI THROUGH GPA MEHBOOB
RAJJAK KARBHARI

....Petitioner

VERSUS

THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS

.....Respondents

Mr. C. D. Biradar, Advocate for the petitioner

Mr. P. D. Patil, AGP for the respondents/State

Mr. R. P. Adgaonkar, Advocate for respondent Nos. 7 to 14, 17 to
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CORAM : S. G. MEHARE, J.

DATE : 18th APRIL, 2024

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1. Heard learned counsel for the petitioner at length.

2. Learned counsel for the petitioner is trying to convince the court that since leave application was preferred to the Zilla Parishad, no confidence motion cannot be passed on that ground. He has referred section 40 of the Maharashtra Village Panchayat Act and again argued that since leave was

sought, he cannot be reversed from the post of Sarpanch. The court asked him whether the petitioner has been removed from his office under Section 40 of the Maharashtra Village Panchayat Act. However, he again argued that since leave application was filed, no confidence motion cannot be passed on the ground and jurisdiction seized with the Zilla Parishad.

3. No confidence motion was passed against the petitioner under Section 35 of the Maharashtra Village Panchayat Act. No confidence motion proceeding is altogether different from censure. The judgment of the Hon'ble Supreme Court in the case of Babubhai Muljibhai Patel Vs Nandlal Khodidas Barot and others reported in (1974) 2 SCC 706 has been brought the notice of the petitioner. In the said case, the Hon'ble Supreme Court long back observed that the charges levelled against the Sarpanch or Upsarpanch in no confidence motion are not required to be established. Mere expressing no confidence is sufficient. Legality of the motion would be seen for violating the provision of law while passing no confidence

motion. The petitioner has no grounds of violating the procedure and the provision of law while passing the no confidence motion.

4. Lastly, the learned counsel for the petitioner, on instructions seeks leave to withdraw the petition. Leave granted.

5. Writ Petition stands disposed off as withdrawn.

[S. G. MEHARE, J.]

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