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1001wp12628.24

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

1001 WRIT PETITION NO. 12628 OF 2024

CHANDRABAI CHANDU WAGHMARE

....Petitioner

**VERSUS**

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY  
AND OTHERS

.....Respondents

Mr. H. I. Pathan, Advocate for the petitioner

Mr. R. B. Dhaware, AGP for the respondents/State

Mr. G. N. Chincholkar, Advocate for respondent Nos. 7, 8, 10, 12  
to 14

**CORAM : KISHORE C. SANT, J.**

**DATE : 22<sup>nd</sup> NOVEMBER, 2024**

**P C.**

1. Heard the learned advocate for the petitioner,  
learned advocate for the caveator-respondent Nos. 7,8,10,12,13  
and 14 and learned AGP for the respondents/State.

2. The petition is taken up for final disposal with the  
consent of the parties.

3. The petitioner has approached this court challenging the impugned judgment and order passed by the learned Collector, Nanded rejecting the dispute application No.2024/GB/ Desk-1/Grapani/Te-16/CR-96 filed by the petitioner by order dated 15-10-2024.

4. The petitioner is elected Sarpanch against whom a no confidence motion was moved by other members on 22-08-2024. Pursuant to the motion notice was issued and meeting was convened on 28-08-2024 by the learned Tahasildar, Biloli, Tq. Nanded. In the meeting said motion was carried by the votes of 9 versus 2. The learned Tahasildar declared the motion to have been passed.

5. The petitioner challenged the said resolution by raising Grampanchayat dispute No. 96/2024. The order passed in this dispute by the learned Collector is under challenge. Main ground raised by the petitioner is that no opportunity of hearing was given to the petitioner in the said meeting and the motion

was passed. The motion, is therefore, illegally passed. He further submits that though in the motion certain allegations were made, there was no supportive material placed in respect of the said allegations. No opportunity was also given to show as to how those allegations are not correct. He, thus, submits that the resolution is passed in violation of the rule 17 which required that every member in the meeting should be given an opportunity to speak in the meeting. During the course of the argument the learned advocate for the petitioner had shown minutes of the meeting. From the minutes of the meeting there is wording that 'after discussion in the meeting, motion was put for voting'. He submits that there is nothing in the minutes to specifically indicate that the petitioner was given an opportunity to put his say in the meeting. In support of his submission he relies on the judgment reported in (2019) 1 Bom CK 0071 in writ petition No.1425/2017 in the case of Manoj Ghanshyamdas Banode Vs Presiding Officer/Tahasildar and Ors. He thus, prays for issuance of notice and grant of interim relief.

6. The learned advocate Mr. Chincholkar appears on caveat vehemently opposed the petition. He submits that no case is made out even for issuance of notice in this petition. He submits that there is no ground that meeting was not properly convened or the motion was not properly moved. Only ground raised is that no opportunity to speak in the meeting was given to the petitioner and secondly that the allegations made in the motion were not supported by any material. He submits that from the minutes of the meeting it is clear that discussion was held and it is only after discussion, motion was moved for meeting. He relies on the judgment reported in 2024 (4) MHLJ 395 in the case of Shila Vijay Chavan Vs State of Maharashtra and others. In this case he submits that the case of Manoj Banode (supra) is also considered. He submits that thus no case is made out even to issue notice and prays for dismissal of the writ petition.

7. The learned AGP supports the order. He submits that the learned Tahasildar had rightly recorded the minutes of the

meeting which clearly shows that the discussion was held in the meeting held pursuant to the notice of motion. There is nothing to indicate that the petitioner had raised any grievance in the meeting. He also prays for rejection of the petition.

8. The main ground that opportunity was not given is neither raised in the dispute before the learned Collector nor raised in the petition, though it is argued as the main ground during the course of the argument. There is nothing in the minutes of the meeting to show that the petitioner in fact made any grievance of not giving of opportunity to him. The learned advocate for the petitioner relies upon the judgment in the case of *Manoj Banode (supra)* this court has carefully gone through said judgment especially para No. 16. This court has considered that merely wording 'discussion was held on no confidence motion' is not sufficient to show that the petitioner was given opportunity to make his statement to putforth his view in respect of the allegations and the charges leveled against him. In the present case said judgment will not help the petitioner for

the reasons that it is not the case of the petitioner before the learned Collector that he was not given an opportunity to speak in the meeting. There is also no ground raised in the petition. This ground is taken for the first time during the course of the argument. In the said case another question that was considered was in respect of the manner of notice. In the said case though some of the members present in the meeting requested for secrete ballot, still voting was taken by show-off hands. In that case, this ground was specifically raised before the learned Collector and the said was not denied by the respondents. There was also no discussion by the learned Collector on this point, though it was raised before the learned Collector. In the present case no case is made out that this point was raised, & in spite of that the learned Collector has failed to appreciate the said ground. For this reason this court finds that said judgment is not applicable.

9. So far as the judgment relied upon by the learned advocate Mr. Chincholkar in the case of Shila Chavan (supra) in some what the similar facts this court held that by considering

the several judgments that what is material is the passing of the no confidence motion by majority as provided under the law. This court finds that the petitioner is democratically elected as Sarpanch. The objection could have been raised in the meeting itself, if no opportunity was given to her to speak in the meeting. No such ground is taken even before the learned Collector. This clearly shows that there was no grievance about not giving an opportunity to speak in the meeting. Needless to say that no reason was necessary to be assigned in the meeting for moving no confidence motion. It is the will of the majority that would prevail. No any other ground is raised in the petition except the ground mentioned above. This court does not find any fourse in the grounds argued before this court. This court does not find that even no case is made to issue notice to the respondents. As it is the contesting respondents are before this court and they are heard. In view of above discussion, the writ petition stands dismissed. No order as to costs.

**[KISHORE C. SANT, J.]**