



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1121 OF 2024

Shri Ravindra Devidas Dighade and others .Vs. The Collector, Washim Tq. & Dist.
Washim and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.S. Patil, Advocate for petitioners.

Shri A.J. Gohokar, A.G.P. for respondent No.1/State.

Shri Mohd. Ateeque, Advocate for respondent No.2

CORAM : ANIL S. KILOR, J.

DATED : 21/02/2024

1. The no confidence motion passed against the respondent No.2 as Sarpanch of Gram Panchayat Kupta was questioned before the Collector under Section 35 (3-b) of the Maharashtra Village Panchayats Act, 1959 and it was upheld by the Collector vide order dated 31.01.2024, which is the subject matter of challenge in this writ petition.

2. After going through the impugned order, it is evident that, though the Collector recorded the finding against the respondent No.2 against whom the no confidence motion was passed, however, the order shows that no confidence motion came to be set aside by the impugned order.

3. The learned Assistant Government Pleader points out that, the service of notice of no confidence motion was not properly made on the respondent No.2 and for the said reason, the application filed by the respondent No.2 came to be allowed and thereby, the no confidence motion was set aside.

4. However, after going through the order, I do not find any reason recorded by the Collector that, the service of notice was not properly made on the respondent No.2 to reach to the conclusion to allow the application filed by the respondent No.2 and to set aside the no confidence motion.

5. Moreover, it appears from the record that, the notice dated 02.11.2023 of no confidence motion was pasted on the door of the house of the respondent No.2 and a panchnama was prepared to which one Rahul Prakash Shyamsunder and Om Vasantrao Shyamsundar were the witnesses who signed the panchnama.

6. Both the witnesses filed the affidavits before the Collector stating therein that, the signatures on the panchnama are not of them. There is nothing to say that any opportunity was given to the petitioner to cross-examine the said witnesses. Even there is nothing to say that these

affidavits are relied upon by the Collector while holding in favour of the respondent No.2.

7. In the circumstances, I am of the opinion that, the order passed by the Collector is cryptic and passed without recording any reason for allowing the application preferred by the respondent No.2.

8. In the circumstances, the only option left with this Court is to remand the matter back to the Collector for deciding the same afresh after hearing both the parties and after giving sufficient opportunity to both the parties. Accordingly, I pass the following order :

- i) The writ petition is **partly allowed**.
- ii) The order dated 31.01.2024 passed by the Collector, Washin in Case No. BVP-1958/SR/ Kupta-14/Tq. Manora/2023-24, is hereby quashed and set aside.
- iii) The matter is remand back to the Collector to decide the same afresh after hearing both the parties.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE