



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

WRIT PETITION NO. 1954/2024

Abhay s/o Madhukar Kambe Vs. The Collector, Akola & others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.D. Karode, Advocate for petitioner
Mr. K.R. Lule, AGP for Respondents / State

CORAM: BHARAT P. DESHPANDE, J.

DATED : 21st MARCH, 2024

Heard.

2. The petition challenges the no confidence motion passed by the respondent No.3 against the petitioner in the meeting held on 08/01/2024 and the order issued by the Collector, Akola, dated 13/03/2024, thereby rejecting the appeal filed by the petitioner, challenging such resolution.

3. The learned counsel for the petitioner would submit that first of all the resolution was passed without any discussion and that there is no reference about what discussion transpired during the said meeting. He submits that one of the Member supporting the petitioner has filed an affidavit stating that there was absolutely no discussion in the meeting about allegations

levelled against the petitioner for taking up such motion of no confidence.

4. The learned Assistant Government Pleader appeared for the State would submit that since the petitioner himself remained absent during the said meeting, the aspects and grounds raised in the present petition are of no substance.

5. The learned counsel for the petitioner placed reliance on the following decisions :

I. **Vipulbhai M. Chaudhary Gujarat Co-operative Milk Marketing Federation Ltd.** reported in 2015(5) ALL MR 441 (SC.);

II. **Ashok Krishnakant Mehta Vs. State of Maharashtra & others** reported in 2000(4) Bom. C.R. 724;

III. **Manoj Ghanshyamdas Banode Vs. Presiding Officer / Tahsildar, Dhamangaon Railway** reported in 2019 (2) Bom C.R. 249 and

IV. **Surekha Eshwar Jadhav Vs. Nirmala w/o Madhavrao Jadhav & Ors.** reported in 2013(3) ALL MR 795.

6. In the above decisions, it is clear from the ratio laid down therein that such decisions are distinguishable from the facts of the present

matter for the simple reason that in all the said decisions, no opportunity was given to the concerned elected member to express his views during the meeting. Similarly, in the case of **Surekha Jadhav** (supra), some of the Members were not served with the notice of the meeting.

7. The petitioner though duly served with the notice of the meeting, failed to appear and express his opinion with regard to no confidence motion. Accordingly, the minutes clearly record that the Members present during meeting had discussion on all the points, which were raised in the said meeting and as per the agenda and only after that the motion was put for voting, the said motion was passed by raising hands, six in favour and one against the said motion.

8. Since the petitioner himself remained absent, the question of giving him opportunity to speak during the said meeting is clearly out of question. He himself chose not to appear and contest such motion, which was moved for showing no confidence. Accordingly, the petitioner now cannot raise the ground that there was no discussion at all. The minutes of the meeting clearly discloses that there was discussion amongst the Members. The learned counsel for the petitioner failed to point out any decision to

demonstrate that the discussion amongst Members in detail is required to be incorporated in the minutes. Accordingly, there is no substance in the present petition and the same stands dismissed. No costs.

(BHARAT P. DESHPANDE, J.)

MP Deshpande