



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

WRIT PETITION NO. 2925 OF 2023

(SAU. KANHAPOTRA NANDKISHOR WAGHMARE..VS.. COLLECTOR, AKOLA & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms Payal Kaware, Adv. h/f. Shri S.S.Dhengale, Advocate for Petitioner.
Shri S.B.Bissa, A.G.P. for Respondent Nos. 1 & 2.
Shri Nikhil R. Tekade, Advocate for Respondent Nos. 4 to 10.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 27, 2024.

1. Heard.
2. The order upholding No Confidence Motion passed against Sarpanch of Gut-Gram Panchayat, Danori (Panori), Tahsil : Akot, District : Akola vide order dated 18/04/2023, is under challenge in this writ petition.
3. The petitioner was elected in general elections held in February 2021 and thereafter she became Sarpanch of Gut-Gram Panchayat, Danori (Panori) in February 2021.
4. On 17/02/2023 the respondent Nos. 4 to 11 moved an application for calling meeting of No Confidence Motion against the petitioner which subsequently successfully passed against the petitioner on 23/02/2023.

5. The motion was passed by 7 votes as the petitioner was absent in the said meeting.

6. It is the case of the petitioner that out of 7 members who voted in favour of the motion 3 were not qualified to vote in the meeting for the reason that on the ground of failure to submit Caste Validity Certificate, within stipulated time they incurred automatic disqualification under Section 10-1A of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as “the Act of 1959”).

7. It is to be noted that, the requirement as per Section 35(2)(a) of the Act of 1959 is that the motion has to be passed by majority of not less than $\frac{3}{4}$ of the total number of members who are for the time being entitled to sit and vote at any meeting.

8. Thus, the petitioner submits that the Collector has failed to take into consideration the disqualification of three members i.e. the respondent Nos. 4, 7 and 9.

9. Shri Tekade, learned counsel for the respondent Nos. 4 to 10 is not disputing about non-submission of the Caste Validity Certificate by the above referred respondents, within the stipulated period.

10. In the circumstances, as there is an automatic disqualification under Section 10-1A of the Act of 1959, the Collector ought to have gone into the said issue before upholding the validity of No Confidence Motion passed against the petitioner. Since the Collector failed to consider the above referred fact of disqualification of the three members which goes to the root of the matter, I am of the opinion that the matter needs to be remanded back to the Collector for reconsideration. Accordingly, I pass the following order:

- i) The Writ Petition is partly allowed.
- ii) The impugned order dated 18/04/2023 passed by the Respondent No.1-Collector, Akola is hereby quashed and set aside.
- iii) The matter is remanded back to the Collector, Akola for deciding it afresh after taking into consideration above referred disqualification of the three members and after granting opportunity of hearing.

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

JUDGE