



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

Writ Petition No.3936/2024
(Ravindra and others V Collector, Washim and others)

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

Court's or Judge's orders

Mr. P.S. Patil, Advocate for petitioners.
Mr. M. Ateeque, Advocate for resp. no.2.
Ms P. Joshi, AGP respondent State.

CORAM : N.R. Borkar, J.

DATE : 27-09-2024.

This petition takes exception to the order dated 14-06-2024 passed by respondent no.1-the Collector, Washim in Dispute No.BVP-1958/SR/Kupta-27/Tq.Manora/2023-24.

ii. The respondent no.2 herein was elected as a Sarpanch of Gram Panchayat Kupta.

iii. On 01-11-2023, the present petitioners who are the members of said Gram Panchayat submitted the requisition to the Tahsildar, Manora proposing to move the motion of no confidence against the respondent no.2. Pursuant to said requisition meeting was convened on 06-11-2023 and in the said meeting out of 11 members 10 members were present and they all voted in favour of the

motion. The validity of motion was challenged by filing dispute before respondent no.1.

iv. By the order impugned, respondent no.1 has allowed the dispute filed by respondent no.2 and declared the motion invalid.

v. I have heard the learned Counsel for the petitioners and the learned Counsel for the contesting respondent no.2.

vi. The main contention of respondent no.2 before respondent no.1 was that he was on medical leave from 31-10-2023 for the period of three months. The meeting dated 06-11-2023 was conducted, while he was on medical leave.

vii. The respondent no.1 while allowing the dispute filed by respondent no.2 has held that Block Development Officer or Village Development Officer ought to have brought the fact of medical leave to the notice of the Presiding Officer. As the same was not done the respondent no.1 has declared the motion invalid.

viii. I have perused the application of respondent no.2 for medical leave. No reason is assigned for such a long leave of three months. It is not shown that the same was approved by members of the Gram Panchayat, by passing resolution to that effect. Thus the only inference which can be drawn from the above facts is that the application was made just to avoid meeting of motion of no confidence.

ix. Even otherwise this Court in Chandrakala w/o Vajjnathrao Ghatul vs Kathalu Maroti Hatagale and others reported in 2009(3) Mh.L.J. 55 has observed thus :

"11. We may reiterate, as we have often stated that one of the essential ingredients of our parliamentary democracy is that the 'will of the majority' must prevail. This is a basic to our democratic process and republican Constitution. Enjoying the confidence of majority has become an inalienable part of our democratic polity. When, therefore, in terms of the Act and the Rules prescribed, the required number of voters, express their no confidence those in whom the no confidence motion was passed, ought to accept

this basic democratic notion and give way, so that the local body would be run by the members in whom majority of the members have confidence. A defeated candidate shall not be allowed the benefit of judicial review when the defect, if any, is of procedure which is directory."

x. In view of the above, the order impugned cannot be allowed to stand and the same is quashed and set aside. The petition is allowed.

xi. At the request of the learned Counsel for respondent no.2, the operation of this order is stayed for a period of two weeks from today.

(N.R. Borkar, J.)