

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.12721 OF 2024**

1. VARSHA VIKAS SHIRKE
Age-51 Years, Occupation- Household,
R/o At Post Kalanbat, Mhaisonde,
Tal. Dapoli, Dist. Ratnagiri
 2. MANALI MOHAN CHAUDHARI
Age-38 Years, Occupation- Household,
R/o At Post Adkhal, Kadamwadi,
Tal. Dapoli, Dist. Ratnagiri
 3. SACHIN GANGARAM KADAM
Age-43 Years, Occupation- Business
R/o At Post Adkhal, Kadamwadi,
Tal. Dapoli, Dist. Ratnagiri
 4. DARSHANA DINESH KADAM
Age-43 Years, Occupation- Household,
R/o At Post Adkhal, Baudhwadi,
Tal. Dapoli, Dist. Ratnagiri
 5. RAVINDRA GOVIND GHAG
Age-58 Years, Occupation- Business,
R/o At Post Harnai, Adkhal Khemwadi,
Tal. Dapoli, Dist. Ratnagiri
 6. AMIR ABDUL GAFUR WAKANKAR
Age- 60 Years, Occupation- Business
R/o At Post Adkhal, Irfaniya Mohalla,
Tal. Dapoli, Dist. Ratnagiri
 7. ANJALI KESHAV MALEKAR
Age-41 Years, Occupation- Household,
R/o At Post Adkhal, Patilwadi,
Tal. Dapoli, Dist. Ratnagiri
 8. RAMISA KHAIRUDDIN KAZI
Age-33 Years, Occupation-Household,
R/o At Post Adkhal, Juikar Mohalla,
Tal. Dapoli, Dist. Ratnagiri
- ..Petitioners

Versus

1. THE DISTRICT COLLECTOR, RATNAGIRI
Having office at Jaystambh,

Tal. Dist. Ratnagiri 415612

2. RAUF A. KARIM KAZI
Age-56 Years, Occupation- Business
R/o At Post Adkhal, Juikar Mohalla,
Tal. Dapoli, Dist. Ratnagiri ..Respondents

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Mr. Mohit Prabhakar Dalvi, Advocate for Petitioners.

Mr. Sanjay D. Rayrikar, AGP for Respondent No.1.

Mr. Harshad Inamdar i/by Mr. Yogesh B. Dandekar, Advocate for Respondents No.2.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 29th SEPTEMBER, 2025.

PRONOUNCED ON : 14th OCTOBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.
2. The present Writ Petition takes exception to order dated 16.07.2024 passed by District Collector, Ratnagiri in Dispute Application No.9/2023, thereby allowing Dispute Application filed by respondent no.2 and also setting aside No Confidence Motion dated 25.10.2023 brought against respondent no.2.
3. The petitioners and respondent no.2 are elected members of Group Grampanchayat, Adkhal, Taluka Dapoli, District Ratnagiri. The Group Grampanchayat consists of 9 members, who were elected in year 2021. On 18.10.2023, 8 out of 9 members moved No Confidence Motion against respondent no.2-Upsarpanch. The Tahsildar, Dapoli convened special meeting of Grampanchayat on 25.10.2023. The

meeting was presided over by Tahsildar. The respondent no.2 was present at meeting. The No Confidence Motion came to be passed against respondent no.2 by majority of 8 out of 9 members. Except respondent no.2 himself, everyone voted against him. Ultimately, Tahsildar declared that No Confidence Motion is validly passed.

4. The respondent no.2-Upsarpanch assailed No Confidence Motion in Dispute Application No.9/2023 before District Collector, Ratnagiri. The District Collector allowed Dispute Application vide his order dated 16.07.2024 and set aside No Confidence Motion passed against respondent no.2. The present Writ Petition is filed impugning aforesaid order.

5. Mr. Mohit Dalvi, learned Advocate appearing for petitioners would submit that No Confidence Motion was passed against respondent no.2 by majority of 8 out of 9 members. The procedure under Meeting Rules was scrupulously followed. The respondent no.2 was present at meeting. He was given opportunity to speak in meeting. All members voted in favour of No Confidence Motion, which was validly passed. However, District Collector allowed dispute on erroneous count, particularly observing that reasons given in notice of No Confidence Motion were different than reasons mentioned in minutes of meeting of No Confidence Motion and, therefore, No Confidence Motion cannot be sustained in law. He would urge that there is no requirement of providing specific reasons in notice of No

Confidence Motion. Even No Confidence Motion need not be passed on specific reasons. Once majority of members expressed lack of confidence against Upsarpanch, it must be held as valid, de-hors reasons on which it is passed. In support of his contentions, he relies upon observations of this Court in case of ***Yamunabai Laxman Chavan and Others Vs. Sarubai Tukaram Jadhav and others***¹.

6. Per contra, Mr. Harshad Inamdar, learned Advocate appearing for respondent no.2 supports impugned order. By inviting attention of this Court to No Confidence Motion he submits that notice was served under Section 45 of Maharashtra Village Panchayat Act, 1959 (for short 'MVP Act, 1959'). Further reasons adopted in notice are different than reasons discussed at meeting of No Confidence Motion. He would, therefore, urge to maintain order passed by District Collector.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that vide notice dated 18.10.2023 requisition for No Confidence Motion was moved by majority of members of Group Grampanchayat, Adkhal. Apparently, notice is in the format for requisition of No Confidence Motion under Section 35 of MVP Act, 1959. The contents thereof clearly depict intention of members to move No Confidence Motion under Section 35 of MVP Act, 1959. Therefore, considering notice as a whole, there is no difficulty to hold that notice is moved under Section 35 of MVP Act,

¹ 2004 (2) Mh.L.J. 1004.

1959. There is no room to interpret aforesaid notice to be under Section 45 of MVP Act, 1959, as sought to be contended on behalf of respondent no.2. Admittedly, notice contains reasons for No Confidence Motion. Ultimately, in meeting dated 25.10.2023, No Confidence Motion has been passed in presence of all members of Village Panchayat including respondent no.2 with majority of 8 out of 9 members.

8. The District Collector pleased to upset No Confidence Motion on ground that reasons mentioned in notice No Confidence Motion and reasons mentioned in minutes of meeting are inconsistent. Therefore, issue that arises for consideration in this Writ Petition is as to whether No Confidence Motion necessarily must be passed in consonance with reasons stated in notice moved under Section 35 of Act.

9. Section 35 of MVP Act, 1959 provides that motion of no confidence may be moved by not less than two third of the total number of the members against Sarpanch or Upsarpanch after giving such notice thereof to Tahsildar as may be prescribed. Although it is contemplated to mention in brief the reasons for No Confidence Motion, it is difficult to hold that No Confidence Motion must be carried only on reasons stipulated in notice. Unlike charge of misconduct as provided under Section 39 of MVP Act, 1959, Sarpanch or Upsarpanch is not required to call upon his explanation and restrict enquiry for reasons stated in notice. The essence of a motion of no

confidence is the expression by the elected members of a legislative body of a want of confidence or faith in the person or persons against whom the motion is moved. Once majority of members expressed lack of confidence in person, person is not entitled to hold post. Such expression once made in meeting of No Confidence Motion through votes of members, No Confidence Motion must be held to be validly passed. There is no requirement under law that ground mentioned while passing No Confidence Motion must be in consonance with notice of No Confidence Motion. The Supreme Court of India in case of ***Babubhai Muljibhai Patel Vs. Nandlal Khodidas Barot***² observed as under:

“It is no doubt true that according to the form prescribed the ground for the motion of no confidence has to be mentioned in the notice of intention to move a motion of no confidence. It does not, however, follow therefrom that the ground must also be specified when a motion of no confidence is actually passed against a President. It is pertinent in this context observe that there is a difference between a motion of no confidence and a censure motion. While it is necessary in the case of a censure motion to set out the ground or charge on which it is based, a motion of no confidence need not set out a ground or charge. A vote of censure presupposes that the persons censured have been guilty of some impropriety or lapse by act or omission and it is because of that lapse or impropriety that they are being censured. It may, therefore, become necessary to specify the impropriety or lapse while moving a vote of censure. No such consideration arises when a motion of no confidence is moved. Although a ground may be mentioned when passing a motion of no confidence, the existence of a ground is not a prerequisite of a motion of no confidence. There is no legal bar to the passing of a motion of no confidence against an authority in the absence of any charge of impropriety or lapse on the part of that authority. The essential connotation of a no-confidence motion is that the party against whom such motion is passed

has ceased to enjoy the confidence of the requisite majority of members.”

10. In light of aforesaid observations, Single Bench of this Court in case of ***Yamunabai Laxman Chavan and Others*** (supra) observed that even if form which is prescribed by statute requires that ground for misconduct be mentioned in notice of intention to move motion, it does not follow therefrom that actual ground must be specified when motion is passed. It is further observed that, motion of no confidence is the fundamental expression of collective will of members of a legislative body that they lack confidence in one of their own. The contention that right to speak at meeting given to a Sarpanch or Upa-Sarpanch requires that requisition which has been moved be furnished to them cannot be acceded to. In present case, respondent no.2-Upsarpanch had participated in meeting and had sufficient opportunity to refute all grounds discussed for No Confidence Motion. As such, No prejudice is caused to him. In that view of matter, impugned order passed by District Collector, Ratnagiri is unsustainable.

11. In result, Writ Petition is allowed in terms of prayer Clause (a).

12. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE