

7 August 2024, the Minister, Rural Development, Govt. of Maharashtra allowed the appeal preferred by the Petitioner. Ms. Swati Devkar (R10) had assailed the said order in WP No.12386 of 2024. By an order dated 26 February 2025, the said Writ Petition was dismissed by this Court.

4. The Petitioner alleges immediately thereafter on 5 March 2025, the members of the Village Panchayat Reda moved a motion of no confidence before the Tahasildar. Pursuant thereto, Tahasildar conducted a Special General Body Meeting of the Village Panchayat on 11 March 2025. The said motion of no confidence was passed in the said Special General Body Meeting with 6 votes cast against the Petitioners and two votes in favour of the Petitioner. Being aggrieved, the Petitioner preferred a Dispute before the Collector. By the impugned order, the District Collector dismissed the said Dispute.

5. Mr. Shinde, learned Counsel for the Petitioner, would urge that the very motion of no confidence was malafide as within few days of the Writ Petition filed by Ms. Swati Devkar (R10) against the order passed by the Divisional Commissioner setting aside the removal of the Petitioner, the said motion of no confidence was moved. There was non-compliance of the mandate contained in Section 35(3) of the Act, 1959, as one of the members of the Village Panchayat was not allowed to participate in the said meeting.

6. Secondly, Mr. Shinde would urge, the motion of no confidence was

moved in breach of the fourth proviso to Section 35 as the Petitioner was reinstated in the post of Sarpanch by the order of the Supreme Court dated 29 April 2024 and, on 2 May 2024, the Petitioner again took charge of the post of Sarpanch.

7. I am afraid, none of the aforesaid grounds is worthy of acceptance. It could not be disputed that on the date of the special general body meeting of of the Village Panchayat, the person who was allegedly not allowed to participate in the meeting, was not a member of the village panchayat. Secondly, the reliance on the fourth proviso to Section 35 of the Act, 1959 does not seem to be well-merited as it provides that no motion of no confidence shall be moved within a period of two years from the date of election of Sarpanch or Upa-Sarpanch and before six months preceding the date on which the term of panchayat expires.

8. Indisputably, the Petitioner was elected as Sarpanch on 9 February 2021. The fact that, in the intervening period, pursuant to the order dated 12 October 2023 passed by the Divisional Commissioner, the Petitioner was removed from the post of Sarpanch and the stay to the said order was granted by the Supreme Court on 29 April 2024, does not necessarily imply that the date the Petitioner took charge of the post of Sarpanch on 2 May 2024 would constitute the date of election of the Petitioner to the post of Sarpanch. The object behind the fourth proviso to Section 35 appears to be to

discourage filing of motion of no confidence within two years of the election so as to ensure that unwarranted motions of no confidence are not filed, immediately after the election.

9. Mr. Kadam, learned Counsel for the Respondent Nos.6 to 10, was justified in canvassing a submission that in a democracy what is important is the will of the majority and the Court would not be justified in inquiring into the reasons for which the motion of no confidence was passed.

10. In the case of **Babubhai Muljibhai Patel V/s. Nandlal Khodidas Barot and Ors.**¹ a three Judge Bench of the Supreme Court emphasised 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

¹ (1974) 2 SCC 706

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.

11. The aforesaid being the position in law, in the instant case, in the absence of any challenge to the resolution adopting the motion of no confidence against the Petitioner on the ground of breach of any mandatory statutory requirement, once the motion of no confidence was carried with requisite majority, the result is inevitable.

12. The Collector thus committed no error in dismissing the Dispute raised by the Petitioner. Therefore, the Writ Petition does not deserve to be entertained.

13. The Writ Petition stands dismissed.

(N.J.JAMADAR, J.)