



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

WRIT PETITION NO.2521 OF 2025

Petitioner : Sau. Salita Jaidev Ganthade,
Aged about 35 years,
Occu. Socialwork,
R/o. Kairi (Sangam), Tah. & Dist. Bhandara,
Mo. No.7822951196

– Versus –

Respondents : 1. State of Maharashtra,
Through District Collector Bhandara,
R/o Collector Office, Bhandara.
2. Shri Subodh Sidharth Meshram,
Aged about Major, Occu. Up-Sarpanch.
3. Shri Sarang Prabhakar Ghargade,
Aged about Major, Occu. Social Work.
4. Sau. Kanta Manoj Atkari,
Aged about Major, Occu. Social Work.
5. Ku. Kiran Jaibharat Bhure,
Aged about Major, Occu. Social Work.
6. Sau. Sheela Sanjay Titirmare,
Aged about Major, Occu. Social Work.
7. Sau. Priyanka Pankaj Suryawanshi,
Aged about Major, Occu. Social Work.
8. Sau. Suresh Shrawan Atkari,
Aged about Major, Occu. Social Work.
9. Secretary, Gram Panchayat Khaire (Sangam)
Respondent Nos.1 to 9
R/o Gram Panchayat Khairi (Sangam),
Tah. and Dist. Bhandara.

10. Tahashildar Bhandara,
R/o Tahasil Office Bhandara, Dist. Bhandara.

11. Block Development Officer,
Panchayat Samiti Bhandara,
Tah. and Dist. Bhandara.

Mr. P.D. Ganvir, Advocate for the Petitioner.
Mrs. Mrunal Naik, A.G.P for Respondent Nos.1 & 10.
Mr. N.R. Raut, Advocate for Respondent Nos.2 to 8.

CORAM : **ROHIT W. JOSHI, J.**
DATE : **2nd SEPTEMBER, 2025.**

ORAL JUDGMENT :

01. ***Rule.*** Rule made returnable forthwith. Heard finally with the consent of the parties.

02. The petitioner was elected as Sarpanch of Gram Panchayat, Khairi (Sangam), Tahsil and District Bhandara. The motion of no confidence came to be passed against the petitioner. The petitioner challenged the legality of the said motion before the respondent-Collector. The said challenge came to be rejected vide order dated 28/03/2025 against which the present petition is filed.

03. Brief facts of the case are as under:

- i. In the elections of Gram Panchayat, Khairi, the petitioner was elected as Sarpanch of the said Gram Panchayat. The election

of Sarpanch was direct election in which voters had cast their votes directly for the post of Sarpanch. The petitioner was declared elected as Sarpanch on 16/10/2022. The Gram Panchayat comprises of 8 Members. Out of them, 6 Members of the Gram Panchayat moved the motion of no confidence against the petitioner. The Tahsildar issued notice dated 29/11/2024 convening a special meeting of the Gram Panchayat on 05/12/2024 for considering the no confidence motion against the petitioner. The motion of no confidence was carried successfully by all the 7 Members present in the meeting, who voted in favour of the motion. The motion was thus unanimously passed. Since the petitioner is a directly elected Sarpanch, the motion of no confidence is required to be ratified by the Gram Sabha. The meeting of Gram Sabha for the said purpose was convened on 24/12/2024. The motion of no confidence was ratified by the Gram Sabha. Out of 281 voters, 252 voters voted in support of the motion.

- ii. The petitioner raised challenge to the motion of no confidence by raising a dispute before the Collector as contemplated under Section 35(3)(b) of the Maharashtra Village Panchayats Act, 1959 (*hereinafter referred to as "Act" for short*). The

Collector has decided the said dispute vide order dated 28/03/2025. The dispute raised by the petitioner was dismissed by the Collector.

04. Mr. P.D. Ganvir, learned Advocate for the petitioner contends that since the petitioner is a directly elected Sarpanch, the motion of no confidence is required to be ratified by the Gram Sabha within a period of 15 days from the date on which the motion is passed by the Gram Panchayat. The learned Advocate has placed reliance on Section 35(3)(b) of the Act in support of his contention. He contends that the motion of no confidence was passed by the Gram Panchayat on 05/12/2024 and it is ratified by the Gram Sabha on 24/12/2024, which is admittedly beyond the stipulated period of 15 days. He further contends that the Collector failed to take into consideration this vital aspect of the matter and has passed the impugned order in utter disregard to the said statutory provision. He also contends that the provision is mandatory in nature inasmuch as it states that the motion “shall” be ratified within a period of 15 days. He has placed reliance on Division Bench’s judgment of this Court in the matter of Ganesh Raghunath Samel vs. State of Maharashtra & others, reported in (2002) 4 Bom CR 425. In the said matter, a special meeting for considering the motion of no confidence was convened beyond a period of seven days as contemplated under Section 35(2) of the Act.

Although the motion was successfully carried, this Court has held that since the meeting was convened beyond the stipulated period of seven days, no confidence motion was required to be quashed.

05. *Per contra*, Mrs. Mrunal Naik, learned Assistant Government Pleader appearing for respondent Nos.1 and 10 has placed reliance on order dated 26/02/2021 passed by the Hon'ble Supreme Court in the matter of **Subhash & Ors. vs. Surekha Hanumant Bankar & Ors.,** arising out of **SLP (C) No.1727 of 2021.** The said matter was pertaining to Section 35(1A) of the Act, which is now repealed. Section 35(1A) also provided that a motion of non-confidence once passed by the Gram Panchayat had to be ratified by the Gram Sabha if the Sarpanch was directly elected. However, the provision did not stipulate any outer limit for the same. The State Government had issued guidelines formulating time limit for ratification of no confidence motion. The motion of no confidence, which was passed by the Gram Panchayat was ratified by the Gram Sabha, however, beyond the stipulated period. Interpreting the provision, the Hon'ble Supreme Court has held that the Act does not contain any provision, which contemplates that in the event, motion of no confidence passed by the Gram Panchayat is not placed for ratification before the Gram Sabha within the stipulated period, would result in lapsing of the motion. However, under Section 35(3)(b) of the Act, the period of 15 days

is specified for the purpose of ratification. The judgment of the Hon'ble Apex Court, therefore, is not directly applicable to the present case. However, it must be examined as to whether the provision prescribing the time frame of 15 days is mandatory or directory. In the considered opinion of this Court, ratification of the motion of no-confidence by the Gram Sabha is mandatory. However, the time frame within which the ratification must be done cannot be said to be mandatory. In this regard, it must be stated that the meeting of Gram Sabha for ratification of motion of no confidence has to be convened by an Officer appointed by the Collector. In the event, such Officer does not convene the meeting within the stipulated period, that by itself will not confer right on the Sarpanch, who has lost majority support to continue to hold the office.

06. In this regard, Mr. N.R. Raut, learned Advocate for the respondent Nos.2 to 8 has placed reliance on the Full Bench Decision of this Court in the matter of **Raosaheb Mallapa Magdum and others vs. Vandana Shivajirao Mane and others**, reported in **2019(5) Mh.L.J. 844** and particularly paragraphs 17 and 18 thereof, which read as under:

“17. Profusion of authorities, as adverted to by us herein above leads to the inescapable conclusion that the fact that the Legislature shackles the public authority by imposing a time frame to discharge its statutory functions which are in the nature of a public duty unequivocally evinces the

legislative intent to hasten the performance of such functions. The fact that such functions could not be performed within the stipulated time frame owing to myriad reasons such as supervening impossibility or otherwise owing to negligent inertia, would not ipso facto invalidate the actions of such authority as the same would be in teeth with the salutary intendment of the Legislature. It is inconceivable that the Legislature which on one hand requires a public authority to discharge its functions promptly within a stipulated time frame; thus signifying its underlying importance, would itself envisage an embargo on the performance of the said functions beyond the said period of time. Needless to state, if the Legislature intends such drastic consequences, the same would be palpable from its express words or by overwhelming evidence of necessary implication.

18. Thus, we answer the reference by holding that notwithstanding sub-section (2) of Section 35 of the Maharashtra Village Panchayats Act, 1959 mandating the Tahsildar to convene a meeting of the Panchayat within seven days from the receipt of the notice under sub-section (1), if for some reasons the Tahsildar is unable to do so or deliberately refrains from doing so, he may be personally liable for the wrong committed but that would not mean that a meeting convened beyond seven days would be coram non-judice. The decisions taken at the meeting would be legal and valid.”

07. In view of the aforesaid judgment, it needs to be held that the motion of no confidence, which is successfully carried and also ratified by

majority of voters present in the meeting of Gram Sabha, cannot be set aside merely on the ground that the motion was not ratified within the stipulated period of 15 days.

08. For the reasons recorded above, in the considered opinion of this Court, no case of interference is made out. The petition is devoid of merits and is liable to be dismissed and, hence, it is dismissed accordingly.

09. Rule is discharged. There shall be no order as to costs.

(Rohit W. Joshi, J.)

**sandesh*