



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

Writ Petition No. 4948 of 2023

[Shalu w/o Raju Gaikwad ..vs.. The Additional Collector, Buldhana
and ors.]

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

Court's or Judge's orders

Mr. P. B. Patil, Advocate for the petitioner
Ms. K. P. Marpakwar, AGP for respondent nos. 1 and 2
Mr. J. K. Matala, Advocate for respondent nos. 5 to 11

CORAM : ANIL L. PANSARE J.

DATED : 20-03-2025

Heard.

2. The petitioner – Sarpanch is aggrieved by order dated 4-5-2023 passed by the Additional Collector, Buldhana dismissing appeal filed under Section 35 (3-B) of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as ‘the Act of 1959’). The motion of no confidence was passed against the petitioner by majority of 2/3rd of total numbers of Members of Gram Panchayat in a meeting dated 31-3-2023.

3. The order is challenged on two grounds. First is that, notice of no confidence motion was never served on the petitioner. The impugned order, however, indicates that notice was served on petitioner’s father-in-law in presence of panchas. Second is that, the competent authority ought to have granted maternity leave for 180 days and had the same been granted, the petitioner would have been on leave on 31-3-2023 because the child was delivered to petitioner on 2-2-2023.

4. Learned counsel for the petitioner submits that petitioner was not residing with her father-in-law and was

residing separately. Copy of ration card to that effect was placed before the authorities below.

5. On this point, learned Assistant Government has invited my attention to paragraph no. 7 of the impugned order, which state that the ration card is a document of family and cannot be treated as evidence of residence in terms of Government Circular dated 5-6-2010.

6. The petitioner has not pointed out from the said circular or otherwise that this finding is incorrect. Thus, it appears that the petitioner has been served through her father-in-law, which is permissible in terms of Rule 2 of the Bombay Village Panchayats Sarpanch and Upa-Sarpanch (No Confidence Motion) Rules, 1975. Thus, there is no force in the aforesaid argument.

7. As regards second ground, learned counsel for the petitioner submits that the petitioner delivered child on 2-2-2023 and was granted maternity leave. As such, the leave was granted till 25-3-2023. However, the petitioner states that leave ought to have been granted for 180 days.

8. In this regard, the petitioner has relied upon the provisions of Maternity Benefit Act, 1961 (for short, 'the Act of 1961'). I have gone through the provisions. It applies to the employees of various establishments. Most importantly, what is provided in Section 5 is that the maximum period, for which any woman shall be entitled to maternity benefit, shall be twelve weeks, of which not more than six weeks shall be preceding to date of her expected delivery.

9. Thus, firstly, the petitioner failed to show that the case of Sarpanch will be governed by the provisions of the Act of 1961 and secondly that, minimum leave that ought to be granted is six months. What is provided is that, the benefit

could be extended for not more than 12 weeks. The leave, therefore, could be granted up to 12 weeks. In that view of the matter, if the leave was granted from 2-2-2023 till 25-3-2023, unless the same is extended, the grievance of the petitioner is untenable. It is not necessary that in all cases, the maternity benefit shall be extended for at least 180 days.

10. Admittedly, the no confidence motion was passed on 31-3-2023, when the petitioner was on duty. That being so, it cannot be said that the authorities below have committed any error of law or have rendered perverse findings. Rather, the record shows that the no confidence motion was passed against the petitioner with majority as required under Section 35 of the Act of 1959. There is no merit in the petition. The petition is dismissed.

(Anil L. Pansare, J.)