



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

WRIT PETITION NO.2867 OF 2025

- Petitioners** : 1. Sau. Pratibha w/o Vinod Ingle,
Aged about 40 years,
Occ. Household/Up-Sarpanch of Gram Panchayat
Belad.
2. Mayawati Dadarao Ingle,
Aged about years,
Occ. Household/Member of Gram Panchayat, Belad.
3. Sagar Ninaji Sambare,
Aged about years,
Occ. Agriculturist/Member of Gram Panchayat,
Belad.
4. Iccharam Digambar Sambare,
Aged about years,
Occ. Agriculturist/Member of Gram Panchayat,
Belad.
5. Sau. Durga Sunil Sambare,
Aged about years,
Occ. Household/Member of Gram Panchayat, Belad.
6. Sau. Priya Vijay Kate,
Aged about years,
Occ. Household/Member of Gram Panchayat, Belad.
7. Sau. Dipmala Dewanand Ingle,
Aged about years,
Occ. Household/Member of Gram Panchayat, Belad.
8. Sandip Shatraguna Nimbolkar,
Aged about years,
Occ. Agriculturist/Member of Gram Panchayat,
Belad.

All petitioners R/o Belad, Tah. Malkapur,
District Buldhana

– Versus –

- Respondents** : 1. Additional Collector, Buldana,
District Buldana.
2. Gram panchayat, Belad,
Tah. Malkapur, District Buldana,
through its Secretary.
3. Sachin Santosh Sambare,
Aged 35 years, Occu. Agriculturist/Sarpanch of
Belad, Gram Panchayat, R/o Belad, Post Tah.
Malkapur, District Buldana.

Mr. R.D. Karode, Advocate for the Petitioners.
Ms. P.C. Bawankule, A.G.P. for Respondent No.1.
None for Respondent No.2.
Mr. Tejas Deshpande a/w Mr. Alpesh Deshmukh,
Advocates for Respondent No.3.

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. Respondent No.3 was elected as Sarpanch of Gram Panchayat, Belad, Tahsil Malkapur, District Buldana. In a motion of no confidence carried against him in the special meeting of Gram Panchayat, Belad held on 05/09/2024, the petitioners raised a dispute as contemplated under

Section 35(3B) of the Maharashtra Village Panchayats Act, 1959 (*hereinafter referred to as "Act" for short*) questioning the validity of the motion. Vide order dated 06/11/2024, the Collector, Buldana had rejected the dispute on the ground that all the 8 members, who were present in the meeting held on 05/09/2024, had cast votes in favour of the motion and the motion was passed with majority of 8:0. Respondent No.3 had raised a contention that he was not served with the notice of the meeting. The said contention was rejected by the Collector stating that copy of the notice of the meeting of no confidence motion dated 02/09/2024 was served on the mother of respondent No.3 and a copy thereof was also pasted on conspicuous part of the residential house of respondent No.3. Respondent No.3 challenged the order dated 06/11/2024 passed by the Collector before this Court in Writ Petition No.6834/2024. This Court was pleased to partly allow the petition vide judgment and order dated 07/03/2025 thereby the order dated 06/11/2024 passed by the Collector was quashed and the matter was remanded back to the said authority for taking fresh decision in the dispute.

03. The contention of respondent No.3 was that the notice of no confidence meeting was served on his mother and her thumb impression was obtained in lieu of acknowledgment of notice and a copy of the notice was also affixed on conspicuous part of his house. This Court observed

that there was no attestation of any witness to the alleged thumb impression of the mother of respondent No.3 and further that in the panchnama, there was no reference to the act of affixing copy of notice on the conspicuous part of the house of respondent No.3.

04. After the matter was remanded, respondent No.3 filed his affidavit disputing receipt of the notice. Respondent No.3 also examined his mother as a witness, who was also cross-examined. The petitioners also examined witnesses in support of their contentions that the notice was served on the mother of respondent No.3 and was also pasted at his residential house. The dispute came to be allowed by the Collector vide order dated 28/05/2024. The Collector has observed that if the notice was served on the mother of respondent No.3, thus there was no need for pasting a copy of notice on the residential house of respondent No.3. The Collector has disbelieved the version of the petitioners that notice was served on the mother of respondent No.3 and was pasted on his residential house. Being aggrieved by the aforesaid order, the Members, who voted in favour of the motion of no confidence, have filed the present petition challenging the said order.

05. Mr. R.D. Karode, learned Advocate for the petitioners states that the motion was carried by majority of 8:0. He states that respondent

No.3 lost confidence of the house and is not entitled to hold the Office. The learned Advocate contends that the evidence on record is sufficient to establish that the notice was duly served on the mother of respondent No.3 and also pasted on the residential house. The learned Advocate has placed reliance on the report dated 02/09/2024 issued by Tahsildar to Talathi regarding the service of notice and also the panchnama drawn in this regard. The learned Advocate has also drawn attention to the copy of notice, which bears thumb impression of the mother of respondent No.3.

06. *Per contra*, Mr. Tejas Deshpande, learned Advocate for respondent Nos.3 and Ms. P.C. Bawankule, learned Assistant Public Prosecutor appearing for respondent No.1 support the impugned order. It is contended that the Collector has taken into consideration the relevant material on record to arrive at a finding of fact, which should not be disturbed in exercise of the writ jurisdiction.

07. Perusal of communication/report dated 02/09/2024 issued by Tahsildar to Talathi will indicate that respondent No.3 was contacted with a view to effect service of notice of no confidence motion's meeting on him and that respondent No.3 had instructed to serve the said notice on his mother. It is stated that as per the instructions of respondent No.3, the notice was served on his mother and a copy was also pasted on his house.

As against this, perusal of the panchnama will demonstrate that when respondent No.3 was contacted on his cell phone, he had agreed to receive the notice, however, he had refused to accept the same and, therefore, the notice was pasted on his residential house. There is a clear contradiction between the contents of the panchnama dated 02/09/2024 and report of the even date. At one place, it is stated that the respondent No.3 refused to accept the notice and, therefore, it was pasted on his residential house and in the same breath, at another place, it is stated that respondent No.3 instructed that notice be served on his mother and further that it was accordingly served on his mother and in addition, a copy was pasted on his residential house. The view taken by the Collector is, therefore, a possible view. The Collector has recorded a finding as regards service of notice on consideration of material on record. Since, the view is a possible view, it will not be appropriate to interfere with the findings recorded by the Collector with respect to service of notice, which is essentially a question of fact.

08. It must also be stated that the acknowledgment on the office copy of the notice bears alleged thumb impression of the mother of respondent No.3. The thumb impression is not attested by any person, in whose presence the service was allegedly effected.

09. The learned Advocate for respondent No.3 has placed reliance on the judgment of this Court in the matter of Sou. Indubai w/o Vedu Khairnar vs. The State of Maharashtra and others, reported in 2002(4) ALL MR 110. In the said case, the notice of no confidence motion was served and the recipient of notice has allegedly put thumb impression in lieu of acknowledgment. However, the thumb impression and receipt of notice was disputed. This Court has held that the notice was not attested by the Tahsildar through whom the notice was purportedly served and there was no evidence before the Collector that the thumb impression on the acknowledgment was by the petitioner in the said case, who was disputing receipt of notice. In such circumstances, the motion of no confidence was set aside on the ground that service of notice was not proved. The learned Advocate has also placed reliance on the judgment of this Court in the matter of Suresh Devidas Choudhari & Ors. vs. Additional Collector Washim & Ors., reported in 2016(2) All MR 797, wherein it has been held that non-service of notice for motion of no confidence is a fundamental defect, which cannot be overlooked merely on the basis of the numbers.

10. The learned Advocate for the petitioners has placed reliance on the judgment of this Court in the matter of Shri Chagan Sadashiv Jadhav & Ors. vs. Smt. Manisha Ramesh Bhandare & Ors., reported in 2018(2) ALL MR 640 and particular paragraph 17 thereof, which reads as

under :

“17. The said aspect has to be looked at another angle. It is required to be noted that the Motion of No Confidence was to be passed against the Sarpanch and Upa-Sarpanch. The importance of the said post to the villagers cannot be in doubt. The Sarpanch and Upa-Sarpanch can be said to be the first citizens in so far as the village is concerned. Hence, when a Motion of No Confidence is moved against a Sarpanch and Upa-Sarpanch, the same would obviously be the talk of the entire village and therefore, it is impossible to believe that the Respondent No.1 in each of the above Petitions was not aware of the meeting to be held on 05/09/2015 and therefore did not remain present. The same is also required to be considered in the background of the fact that the other 14 members out of the total 17 members have been served on 02/09/2015. When such a large number of members have been served with the notice, it is not possible to accept the case of the Sarpanch and Upa-Sarpanch that they were not aware of the meeting dated 05/09/2015. It is possibly seeing the writing on the wall, where an overwhelming majority of the members is against them that the Respondent No.1 in each of the above Petitions did not choose to remain present and therefore their absence cannot be attributed to the non-service of notice on them as is sought to be made out by them.”

11. In the said matter, the motion of no confidence was carried against the Sarpanch and Upa-Sarpanch. Since they were not found, notices were served on other adult members in their respective families. The contention raised by the petitioner was that first attempt to serve the

notice on the Sarpanch or Upa-Sarpanch should be made and in case the notice cannot be served on the Sarpanch or Upa-Sarpanch, it can be served on any of their family members. This Court has held that service of notice on family members of the Sarpanch or Upa-Sarpanch was a substantial compliance of the provisions and, therefore, the motion of no confidence could not be set aside for want of notice.

12. The above observations in paragraph 17 are made in this context. In the present case, a finding of fact is recorded by the Collector that the notice was not duly served. This is a distinguishing feature between the two cases.

13. The petitioners have also placed reliance on the judgment dated 30/08/2024 passed by this Court in Writ Petition No.3350/2024 in the matter pertains to no confidence motion passed under the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, wherein it has been provided that no confidence meeting is required to be presided over by the Collector or any Officer authorized by him in that behalf. The meeting was presided over by the Sub Divisional Officer, and the Sub Divisional Officer was authorized by the Collector to preside over the meeting. However, at the relevant time, the Sub Divisional Officer was on leave and he had not handed over the charge to Tahsildar, who had

presided over the meeting of no confidence. The motion passed was challenged on the ground that the meeting was not presided over by the competent Officer. This Court was pleased to dismiss the petition on the ground that the petitioner had failed to demonstrate any prejudice caused on the said count. The said judgment cannot be applied to the facts of the present case, where the notice of meeting, in which motion is passed, is not proved to be served. It must be reiterated that the service of notice is held to be a fundamental requirement of law in the matter of Suresh Choudhari (*supra*).

14. For the reasons recorded above, in the considered opinion of this Court, no case of interference is made out. The writ petition is liable to be dismissed and is dismissed accordingly.

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

16. At this stage, the learned Advocate for the petitioners makes a request to continue the interim order dated 03/06/2025 passed by this Court in the present petition for a period of six weeks in order to enable the petitioners to approach the Hon'ble Apex Court. Vide order dated 03/06/2025, the effect and operation of the order dated 28/05/2025 passed by the Collector thereby setting aside the no confidence motion, was stayed. The learned Advocate states that the motion of no confidence

is passed on 05/09/2024 and since then, respondent No.3 is not holding the Office.

17. The learned Advocate for respondent No.3 opposes the prayer.

18. Interim order dated 03/06/2025 is extended for a period of four weeks i.e. up to 30th September, 2025.

(Rohit W. Joshi, J.)

**sandesh*