



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

**WRIT PETITION NO. 5170 OF 2025**

1. Vijay Dhansing Jadhav, Aged 62 years, Occ: Upa-Sarpanch, Gram Panchayat Januna (Wadala), R/o Januna, Taluka Barshitakli, District Akola.
2. Dayaram Bondraji Ghode, Aged-- years, Occ: Member, Gram Panchayat Januna (Wadala), R/o Januna, Taluka Barshitakli, District Akola.
3. Mira Motiram Jadhav, Aged – years, Occ: Member, Gram Panchayat Januna (Wadala), R/o Januna, Taluka Barshitakli, District Akola.
4. Sanjay Harichand Pawar, Aged – years, Occ: Member, Gram Panchayat Januna (Wadala), R/o Januna, Taluka Barshitakli, District Akola.
5. Rohit Balu Pawar, Aged – years, Occ: Member, Gram Panchayat Januna (Wadala), R/o Januna, Taluka Barshitakli, District Akola.
6. Bugabai Mundilal Rathod, Aged – years, Occ: Member, Gram Panchayat Januna (Wadala), R/o Januna, Taluka Barshitakli, District Akola.
7. Archana Manik Jadhav, Aged 35 years, Occ: Member, Gram Panchayat Januna (Wadala), R/o Januna, Taluka Barshitakli, District Akola.

**PETITIONERS**

**VERSUS**

1. The Collector, Akola, District Akola.
2. The Tahsildar, Barshitakli, Tahsil Barshitakli, District Akola.
3. Gat Gram Panchayat Januna (Wadala), Tahsil: Barshitakli, Dist. Akola, Through its Secretary.
4. Nalini Makhram Rathod, Aged 57 years, Occ: Household, Sarpanch, Gram Panchayat Januna (Wadala), R/o Januna, Tah.Barshitakli, Dist.Akola.

**RESPONDENTS**

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Shri R.D. Karode, counsel for the petitioner.  
Shri A.S. Fulzele, Additional Government Pleader for the respondent nos.1 and 2.  
Shri K.S. Chiwarkar, counsel for the respondent no.4.

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**CORAM : PRAFULLA S. KHUBALKAR, J.**

**DATE : APRIL 09, 2026**

**ORAL JUDGMENT**

**RULE.** Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. The petitioners herein, the elected members of the Gram Panchayat, have raised a challenge to the order dated 04.09.2025 passed by the respondent no.1-Collector, Akola by which stay is granted to the 'No Confidence Motion' which was duly passed by the Members of the Gram Panchayat and even ratified by the Gram Sabha.

3. The issue is whether the Collector can exercise power under Section 35(3B) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act') to grant interim stay to the motion of no confidence. The controversy arose with respect to the motion of no confidence passed by majority against the Sarpanch of Gram Panchayat Januna (Wadala) Taluka Barshitakli, District Akola. The petitioners are the Members of the Gram Panchayat which consisted of total eight valid members. On 24.02.2025, the Members preferred a requisition for calling a special meeting for no confidence motion against the Sarpanch and pursuant thereto on 27.02.2025 the special meeting was held which was presided over by the Tahsildar. The no confidence motion was passed by requisite majority which was even ratified by the Gram Sabha on 12.03.2025. As a consequence thereof, the respondent no.4-Sarpanch of the Gram Panchayat stood removed having lost the confidence of the majority of the members.

4. The respondent no.4 raised a challenge to the motion of no confidence vide her dispute application under Section 35(3B) of the Act before the respondent no.1-Collector, Akola and also sought for an interim relief to stay the motion of no confidence. By order dated 04.09.2025, the respondent no.1 passed an interim order and granted stay to the motion of no confidence. The petitioners have challenged this order by way of instant petition.

5. By assailing the impugned order, Shri R.D. Karode, learned counsel for the petitioners submitted that the impugned order is untenable for absence of any provision of law and power with the Collector to pass any interim order under Section 35(3B) of the Act. He submitted that the impugned order is passed by ignoring the mandate of Section 35(3) of the Act which provides that the Sarpanch or Upa-Sarpanch shall forthwith stop performing all the functions and duties immediately after the motion of no confidence is passed against him. He thus submitted that the impugned order being passed without any support of law is unsustainable and deserves to be quashed and set aside. In support of his contentions, he placed reliance on the judgment of the Coordinate Bench of this Court in ***Sudam Ravindra Desle Versus The Collector, Dhule & Others*** [Writ Petition no.4897 of 2024], decided on 08.07.2024.

6. Shri A.S. Fulzele, learned Additional Government Pleader for the respondent nos.1 and 2 and Shri K.S. Chiwarkar, learned counsel for the respondent no.4 opposed the petition and justified the impugned order.

They submitted that the Collector is empowered to decide the proceedings under Section 35(3B) of the Act and the power to pass final orders include the power to pass interim order and as such, the impugned order warrants no interference. They also submitted that the Collector had noticed certain irregularities in the passing of the motion of no confidence and was therefore empowered to pass appropriate interim order.

7. In the backdrop of the aforesaid submissions, rival contentions fall for my consideration.

8. While considering the rival contentions, it has to be noted that the challenge is to an order passed by the Collector granting stay to the motion of no confidence which was duly passed in the special meeting and ratified by the Gram Sabha. To delve further into the controversy, a close look at the provisions of Section 35(3) of the Act is necessary which is reproduced below:-

*“35(3). [a)] If the motion is carried by [a majority of not less than [three-fourth] of] the total number of the members who are for the time being entitled to sit and vote at any meeting of the panchayat or the Upa-Sarpanch, as the case may be, [shall forthwith stop exercising all the powers and perform all the functions and duties of the office and thereupon such powers, functions and duties shall vest in the Upa Sarpanch in case the motion is carried out against the Sarpanch; and in case the motion is carried out against both the Sarpanch and Upa-Sarpanch, in such officer, not below the rank of Extension Officer, as may be authorised by the Block Development Officer, till the dispute, if any, referred to under sub-section (3B) is decided:*

*Provided that, if the dispute so referred is decided in favour of the Sarpanch or, as the case may be, Upa-Sarpanch, thereby setting aside such motion, the powers, functions and*

*duties of the Sarpanch or Upa-Sarpanch shall forthwith stand restored, and if the dispute is decided confirming the motion, the office of the Sarpanch or, as the case may be, Upa-Sarpanch shall be deemed to have fallen vacant from the date of the decision of the dispute, unless the incumbent has resigned earlier:*

*Provided further that, in cases where the offices of both the Sarpanch and Upa-Sarpanch become vacant simultaneously, the officer authorised under this sub-section shall, pending the election of the Sarpanch, exercise all the powers and perform all the functions and duties of the Sarpanch but shall not have the right to vote in any meetings of the panchayat:]*

*[[Provided also that], where the office of the Sarpanch being reserved for a woman, is held by a woman Sarpanch, such motion of no-confidence shall be carried only by a majority of not less than three-fourth of the total number of the members who are for the time being entitled to sit and vote at any meeting of the panchayat:]*

*Provided also that, no such 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:*

*Provided also that, if the no-confidence motion fails, then no motion shall be moved within next two years from the date of failure of no-confidance motion.]*

*[(b) After the motion of no-confidence against the directly elected Sarpanch is carried by a majority of not less than three-fourth of the total number of the members, who are for the time being entitled to sit and vote at any meeting of the panchayat, then the same shall be ratified by the Gram Sabha, in a special meeting convened, within fifteen days from passing of such motion, by an officer appointed by a Collector in this behalf, in the presence and under the Chairmanship of such officer, by a simple majority by the method of counting of heads. After such ratification of motion by the Gram Sabha, the Sarpanch **shall forthwith stop, exercising all the powers and performing all the functions and duties of the office and thereupon, such powers, functions and duties shall vest in the Upa Sarpanch, and in case the motion is carried out against both the Sarpanch and Upa-Sarpanch, in such officer, not below the rank of Extension Officer, as may be authorised by the Block***

***Development Officer, till the dispute, if any, referred to under sub-section (3B) is decided:]***

*(3A) If the motion [is not moved or is not carried] by [a majority of not less than [or, as the case may be, three-fourth, of] the total number of the members who are for the time being entitled to sit and vote at any meeting \*the total number of the of the panchayat, no such fresh motion shall be moved against the Sarpanch or, as the case may be, the Upa Sarpanch within a period of [one year] from the date of such special meeting.]*

*(3B) If the Sarpanch or, as the case may be, the Upa Sarpanch desires to dispute the validity of the motion carried under sub-section (3), he shall, within seven days from the date on which such motion was carried, refer the dispute to the Collector who shall decide it, as far as possible, [within thirty days from the date on which it was received by him; and his decision shall be final].”*

9. The mandatory effect of the provision is apparent from use of the words ‘shall forthwith stop exercising all the powers and functions and duties of the Office’. It is clear that the provision contemplates immediate effect to the motion of no confidence, which appears precisely in tune with the concept of ‘no-confidence’. Further, pursuant to the decision of the dispute by the Collector, there is a mandate about the consequential effect of either restoring the position or occurrence of vacancy of the post of Sarpanch or Upa-Sarpanch.

10. A bare perusal of the aforesaid provision shows that the Sarpanch or Upa-Sarpanch against whom the motion of no confidence is passed is prohibited from exercising the powers and performing the functions as Sarpanch or Upa-Sarpanch immediately after the resolution of no confidence is passed against him.

11. Apart from this, the effect of the motion of no confidence against a Sarpanch or Upa-Sarpanch is also relevant to be noted. Pertinently, the fact that the motion of no confidence is passed by the requisite majority, goes to show that the Sarpanch or Upa-Sarpanch against whom the motion is moved has lost the confidence of other Members. In this regard, it is beneficial to note the observations of the Coordinate Bench of this Court in paragraph 20 of the judgment in ***Prabhawati Vuaykumar Khivsara Versus State of Maharashtra & Others*** [(2008) 2 Mah LJ 274] by referring to the observations of the Division Bench of this Court in ***Nimba Rajaram Mali Versus Collector, Jalgaon*** [1998(3) Mh.L.J. 204], which is reproduced below:-

*“20. The Division Bench of this Court, in the case of Nimba Rajaram Mali v. Collector, Jalgaon, reported in 1998 (3) Mh. L.J. 204 1999 (1) Bom. C.R. 546, followed the aforesaid Judgment in the case of Smt. Annapurnabei Ajabrao v. Annapurnabai Anandrao (referred supra) and observed thus:*

*"In a democratic society what is important is the will of the majority and the elected representatives must honour the will of the majority. It is immaterial to analyse and debate on the reasons behind the will of the majority or the specific reasons for such will being expressed. The will of the majority is of paramount importance and it must be respected by all elected representatives responsible for the governance of such democratic institutions. As observed by the Apex Court in the case of Babubhai (supra), resolution of No Confidence Motion is different from Censure Motion and such a resolution cannot be faulted on the ground that there were no reasons or reasons were vague and lacked detailed specifications. Once the resolution of No Confidence Motion is passed by a clear majority and in keeping with the requirements of the concerned statutory provisions, the person against whom such a*

*resolution is passed, must honour the will of the majority and make way for the new election of his successor. Unless it is shown that while passing such a resolution of No Confidence Motion, there was flagrant violation of any of mandatory procedure laid down, such a resolution cannot be interfered with by the Court or statutory authorities adjudicating such disputes."*

12. In view of the above mentioned enunciation of law, it has to be noted that the will of majority of the elected representatives must be honoured as regards reposing confidence in the Sarpanch/Upa-Sarpanch. The will of the majority has to be respected and immediately after the motion of no confidence is passed by the requisite majority, the concerned Sarpanch or Upa-Sarpanch is required to forthwith stop functioning on that post.

13. It is also crucial to note that there is no provision in law about grant of any stay to the motion of no confidence which may have the effect of allowing the concerned Sarpanch/Upa-Sarpanch to function as such, even after a valid motion of no confidence is passed against him. In view of the fact that there is no provision of granting stay to the motion of no confidence and further by considering the very concept of the motion of no confidence, the impugned order passed by the Collector granting stay to the motion of no confidence does not stand to the scrutiny of law. Even a perusal of the impugned order reveals that the Collector has not relied upon any provision of law and mere fact of pendency of the dispute cannot be a reason to immediately grant stay to the validly passed motion of no confidence.

14. Hence, in view of the above mentioned factual and legal aspects, I am of the firm opinion that the order dated 04.09.2025 passed by the respondent no.1-Collector, Akola is unsustainable in law and therefore the said order is quashed and set aside. The writ petition is allowed and disposed of with no order as to costs. Rule accordingly.

**(PRAFULLA S. KHUBALKAR, J.)**

APTE