

(2023) 11 BOM CK 0011

Bombay High Court

Case No: Writ Petition No. 13310, 13321 Of 2023

Savita Shrimant Ghule And
Others

APPELLANT

Vs

Sangita Bibhishan Sanap & Ors

RESPONDENT

Date of Decision: Nov. 21, 2023

Acts Referred:

- Constitution Of India, 1950 - Article 227
- Bombay Village Panchayats (Meetings) Rules, 1959 - Rule 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 33
- Maharashtra Village Panchayats Act, 1959 - Section 13(4), 35, 35(1), 35(2), 35(3), 35(3A), 35(3B)
- Bombay Village Panchayat Act, 1958 - Section 35, 35(3), 44(1), 44(2), 44(3)
- Mysore Town And Country Planning Act, 1961 - Section 76j

Hon'ble Judges: Madhav J. Jamdar, J

Bench: Single Bench

Advocate: D. S. Mhaispurkar, A. R. Kapadnis, Umesh Kurund, A. P. Vanarase

Final Decision: Dismissed

Judgement

Madhav J. Jamdar, J

1. On the earlier occasion, I have heard submissions of Mr. Mhaispurkar, learned counsel appearing for the Petitioners, Mr. Kurund, learned counsel

appearing for Respondent Nos. 1 to 7 and Mr. Vanarsase, learned AGP appearing for the Respondent "State".

2. The Petitioners are challenging the legality and validity of the order dated 13.10.2023 passed by the Collector, Solapur in Grampanchayat Dispute

Application Nos. 33 of 2023 and 34 of 2023 filed under Sections 35(3-B) of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as "said Act").

3. By the impugned order, the Collector, Solapur has dismissed the Dispute Applications and held that the "Motion of No Confidence"™ has been validly passed against the Petitioners i.e. Sarpanch and Upa-Sarpanch respectively of Grampanchayat Ukkadgaon, Taluka - Barshi, District - Solapur.

4. It is the submission of Mr. Mhaispurkar, learned counsel appearing for the Petitioners that no Resolution was moved in the Special Meeting called for discussing "Motion of No Confidence"™. He submits that notice given to the Tahsildar is merely a notice. He relied on the Full Bench decision

of this Court in the case of Viswas Pandurang Mokal Vs. Group Gram Panchayat, Shihu & ors., reported in (2011) 3 Mh LJ 500. He submitted that

moving the motion i.e. Resolution of "Motion of No Confidence"™ is mandatory. He relied upon the decision of the Supreme Court in the case of

Ramesh Vs. Sheshrao & Ors. reported in 1998 (9) SCC 113 and submitted that the bar under Section 35(3-A) of the said Act would be attracted, if

the previous "Motion of No Confidence"™ has been defeated because of want of the requisite majority for passing the same. He relied on the

decision of the Division Bench of this Court in the case of Prakash Barku Patil Vs. State of Maharashtra, reported in (1998) 1 Mh LJ 43. However,

he submitted that the said decision is distinguished in the case of Ravindra s/o. Sukhdeo Sanap and another Vs. State of Maharashtra and others,

reported in (2014) 4 Mh LJ 443. He submitted that in spite of the Full Bench decision in the case of Shri Tatyasaheb Ramchandra Kale Vs. Shri

Navnath Tukaram Kakade & ors., reported in (2015) 1 ALL MR 497 (F. B.), the infraction that has occurred in the present case is on account of the

motion not being formally proposed and seconded. He submitted that although the Respondents have heavily relied on the decision of Tatyasaheb

Ramchandra Kale (supra) yet even the Full Bench has not held that moving of the motion is not necessary as provided under Section 35(1) of the said

Act. He submitted that the ratio of the Full Bench decision in the case of Tatyasaheb Ramchandra Kale (supra) in any case, has held that validity of

the motion just otherwise by fulfilling requirement of Section 35(3) of the said Act presupposes that Sections 35(1) and 35(2) of the said Act are

complied with. He submitted that although separate notices were given for moving "Motion of No Confidence" against the Sarpanch and Upa-

Sarpanch, both the meetings were called at one and the same time i.e. at 11.00 am. It is apparent that both the motions were passed at the same time.

Thus, prejudice has been caused to the Petitioners.

5. On the other hand, Mr. Kurund, learned counsel appearing for the Respondent Nos. 1 to 7 submitted that said "Motion of No Confidence"

has been passed by an overwhelming majority. Seven members, out of nine members have voted in favour of the "Motion of No Confidence".

He submitted that as the requirements of Section 35 of the said Act are fulfilled, no interference is warranted under Article 227 of the Constitution of

India. He relied on the decision of the Full Bench of this Court in the case of Tatyasaheb Ramchandra Kale (supra) and more particularly on

paragraph 21 of the same.

6. Mr. Vanarase, learned AGP appearing for the Respondent "State supported the impugned order.

7. Before considering the rival submissions, it is necessary to set out relevant portion of Section 35 of the said Act which reads as under :-

35. Motion of no confidence.- (1) A motion of no confidence may be moved by not less than two-third of the total number of the members who

are for the time being entitled to sit and vote at any meeting of the Panchayat against the Sarpanch or the Upa-Sarpanch after giving such notice

thereof to the Tahsildar as may be prescribed. Such notice once given shall not be withdrawn.

(2) Within seven days from the date of receipt by him of the notice under sub-section

(1), the Tahsildar shall convene a special meeting of the Panchayat for considering the motion of no confidence at the office of the Panchayat at a

time to be appointed by him and he shall preside over such meeting. At such special meeting, the Sarpanch, or the Upa-Sarpanch against whom the

motion of no confidence is moved shall have a right to speak or otherwise to take part in the proceedings at the meeting (including the right to vote).

(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 the Sarpanch 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-confidence

motion.

(3-B) 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.â€

(Emphasis added)

Thus, reading of Section 35 of the said Act clearly shows that the following are the mandatory requirements which are required to be fulfilled for

holding that the â€Motion of No Confidenceâ€™™ is successfully carried.

(i) Notice of â€Motion of No Confidenceâ€™™ against Sarpanch and Upa-Sarpanch is required to be submitted to Tahsildar by not less than 2/3rd

members of the total number of members who are for the time being entitled to sit and vote at any meeting of the Panchayat.

(ii) Within seven days from the date of receipt of such notice by the Tahsildar, he shall convene a Special Meeting of the panchayat for considering

â€Motion of No Confidenceâ€™™ at the office of the panchayat at the time to be appointed by him and he shall preside over such meeting.

(iii) At such special meeting of Grampanchayat, the Sarpanch or Upa-Sarpanch against whom â€Motion of No Confidenceâ€™™ is moved shall have

a right to speak or otherwise to take part in the proceedings at the meeting including the right to vote.

(iv) Such a motion is required to be carried by a majority of not less than 3/4th of the total number of members, who are for the time being entitled to

sit and vote at any meeting of the Grampanchayat.

8. It is necessary to analyse the factual aspects in the light of above mandatory requirements of Section 35 of the said Act. The factual aspects are

set out herein below :-

(i) The said Grampanchayat Ukkadgaon, Taluka - Barshi, District - Solapur has nine members. The election of the said Grampanchayat was held on

15.01.2021.

(ii) On 24.05.2023, seven members, out of nine members submitted separate notice of "Motion of No Confidence" against the Sarpanch i.e.

Savita Shrimant Ghule (The Petitioner in W. P. No. 13310 of 2023) and Upa-Sarpanch i.e. Ganesh Vishnu Hagawne (The Petitioner in W. P. No. 13321 of 2023).

(iii) In accordance with the said notice, the Tahsildar issued two separate notices on 24.05.2023 scheduling a special meeting on 30.05.2023 to

consider the said notice of "Motion of No Confidence". Two separate notices were issued by Tahsildar regarding "Motion of No

Confidence" against Sarpanch i.e. Savita Shrimant Ghule (The Petitioner in W. P. No. 13310 of 2023) and Upa-Sarpanch i.e. Ganesh Vishnu

Hagawne (The Petitioner in W. P. No. 13321 of 2023).

(iv) Accordingly, the special meeting was held on 30.05.2023. The Minutes of the said meeting dated 30.05.2023 show that "Motion of No

Confidence" against Sarpanch and Upa-Sarpanch were considered separately. Initially "Motion of No Confidence" against the Sarpanch

was considered and decided and thereafter the "Motion of No Confidence" against the Upa-Sarpanch was considered and decided. The

Minutes dated 30.05.2023 also show that Members " 1. Sangita Bibhishan Sanap, 2. Rekha Rahul Waghmare, 3. Suvarna Dattatraya Mundhe, 4.

Vijaymala Ramkisan Wagh, 5. Nanappa Dattu Mundhe, 6. Nagnath Vaijinath Waghmare and 7. Kalias Shivaji Mundhe placed various points in

support of the said "Motion of No Confidence". It is significant to note that the Sarpanch as well as the Upa-Sarpanch i.e. Petitioner in both the

Writ Petitions were not present in the said special meeting. Thus, out of 9 members of the said Grampanchayat, only 7 members were present in the

said special meeting (i.e. except Sarpanch and Upa-Sarpanch) and all 7 members have voted in favour of the "Motion of No Confidence".

(v) As per requirement of Section 35 of the said Act, 2/3rd members are required for giving notice and 3/4th members are required to vote in favour

of "Motion of No Confidence". In the present case, admittedly, more than 2/3rd members have given notice of "Motion of No

Confidence" to the Tahsildar and an overwhelming majority i.e. more than 3/4th members have passed the said Resolution.

(vi) The said Minutes also show that all the members have participated in the discussion and thereafter, 7 members have voted in favour of "Motion of No Confidence".

(vii) Insofar as the Upa-Sarpanch is concerned, after a Resolution has been passed against the Sarpanch, it has been separately discussed and decided.

Thus, it is clear that "Motion of No Confidence" was passed by following the procedure established by law and all the requirements of Section 35 are fulfilled.

9. In view of the above factual and legal aspect, it is necessary to consider the contention raised by Mr. Mhaispurkar, learned counsel appearing for the Petitioners. Mr. Mhaispurkar, learned counsel appearing for the Petitioners and Mr. Kurund, learned counsel appearing for the Respondents both have relied on the Full Bench decision of this Court in the case of Tatyasaheb Ramchandra Kale (supra). It is necessary to set out paragraph 21 of the said decision which reads as under :-

"21. Finally to put the matter in perspective, the requirement of Rule 17 in the matter of proposing and seconding the motion cannot impinge upon the validity of the motion of no confidence which has otherwise been passed by fulfilling the requirement of Section 35(3) of the Bombay Village Panchayats Act, 1958. The infraction that has occurred on account of the motion not being formally proposed and seconded cannot invalidate the motion if the same has been passed by fulfilling the requirements of Section 35(3) of the BVP Act, as the said infraction does not affect the merits of the case. Hence we hold that Rule 17 is directory, and the test laid down in Section 44(3) of the BVP Act namely whether the defect affects the merits of the case, would have to be applied, if a challenge is raised to such a motion. We accordingly answer the reference and remit the matter back to the Division Bench for the above Letters Patent Appeal being decided on merits."

(Emphasis added)

10. A specific reference is made to Section 44(3) of the said Act in the said decision of the Full Bench including in the said paragraph 3. Sub section 3

of Section 44 of the said Act reads as under :-

“(3) No act or proceedings of a Panchayat shall be deemed to be invalid on account of any defect or irregularity in any such act or proceeding not affecting the merits of the case or on account of any irregularity in the service of notice upon any member or for mere informality.”

(Emphasis added)

11. Thus, it is clear that what is provided in Section 44(3) is that no act or proceedings of a Panchayat shall be deemed to be invalid on account of any defect or irregularity in any such act or proceeding not affecting the merits of the case or on account of any irregularity in the service of notice upon any member or for mere informality.

12. Thus, the submissions raised by Mr. Mhaispurkar, learned counsel appearing for the Petitioners that “Motion of No Confidence” is actually required to be moved in the meeting has no basis.

13. In this particular case, the Tahsildar has placed “Motion of No Confidence” before the special meeting of Grampanchayat. All the members discussed the said motion & thereafter, passed the “Motion of No Confidence” by more than 3/4th majority. Therefore, requirements of Section 35 of the said Act are fulfilled. Requirements of Section 35 are already set out herein above. The most important aspect of Section 35 is giving notice to the Tahsildar regarding “Motion of No Confidence”. The Tahsildar must convene meeting of the Panchayat within seven days thereafter.

The Tahsildar shall preside over such meeting. Sarpanch or Upa-Sarpanch against whom “Motion of No Confidence” was moved shall have a right to speak or otherwise to take part in the proceedings at the meeting (including right to vote), and “Motion of No Confidence” is to be carried by a majority of not less than 3/4th members of the total members of the Grampanchayat who are for the time being entitled to sit and vote at any meeting of the Panchayat.

14. Thus, not moving and seconding “Motion of No Confidence” will not vitiate the “Motion of No Confidence” validly passed by fulfilling the requirements as contemplated under Section 35 of the said Act. Therefore, Mr. Kurund, learned counsel appearing for the Respondents has rightly

relied on the decision of the Full Bench in the case of Tatyasaheb Ramchandra Kale (supra). Paragraph 21 of the aforesaid decision clearly supports

the case that "Motion of No Confidence" need not be proposed and seconded. In the present case the same has been carried in accordance

with the provisions of Section 35 of the said Act. Reliance placed on the other decision by Mr. Mhaispurkar, learned counsel appearing for the

Petitioners is of no help, as the Full Bench decision in the case of Tatyasaheb Ramchandra Kale (supra) has discussed the said aspect in detail. The

Full Bench at the fag end of paragraph 19 therein has observed as under :-

"Hence though we have come to a conclusion that Rule 17 of the Meeting Rules is directory however on the touchstone of Section 44(3) of the

BVP Act and having regard to the fact that the resolution has been passed by a 2/3rd majority, any defect in the procedure relating to passing of the

said resolution can be said to be cured, and therefore, on the application of Section 44(3) of the BVP Act, the resolution cannot be said to be vitiated

on account of any infirmity in the proceedings."

(Emphasis added)

15. Thus, the Full Bench has clearly held that any defect in the procedure relating to passing of the said resolution can be said to be cured on the

touchstone of Section 44(3) of the said Act and by applying said Section, resolution cannot be said to be not valid on account of any infirmity in the

proceedings. Thus, there is no substance in the contention raised by Mr. Mhaispurkar, learned counsel appearing for the Petitioners.

16. Mr. Mhaispurkar, learned counsel appearing for the Petitioners has relied on the Full Bench decision in the case of Viswas Pandurang Mokal

(supra) and more particularly on paragraph 17, relevant part of the same reads as under :-

"17. It is, thus, clear that moving of the motion of no confidence is not by submission of requisition to the Tahsildar. The requisition is only

for calling a special meeting to facilitate moving of motion of no confidence. The motion of no confidence is actually moved in the meeting of the

village panchayat and as there is no contrary provision to be found either in the Act or in the No Confidence Motion Rules, in relation to moving of a

motion in a meeting of the village panchayat, Rule 17 of the Meeting Rules which makes such a provision will apply. In the Meeting Rules there is a provision made for calling a special meeting of village panchayat because a requisition is received from members. Therefore, concept of convening a special meeting of the village panchayat as a consequence of requisition received from the members is to be found in the Meeting Rules itself and therefore, all those provisions contained in the Meeting Rules in relation to convening and holding of a special meeting of the village panchayat will apply to the special meeting convened under section 35, subject to there being any specific contrary provision in the Act or in the No Confidence Motion Rules.

Perusal of the provision of sub-section (3A) of section 35 shows that provision makes difference between moving of a motion and carrying of a motion by requisite majority. Provision of sub-section (3-A) of section 35 reads as under :

(3-A) If a motion (is not moved or is not carried) by (a majority of not less than two-third of) (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 of the panchayat, no such fresh motion shall be moved against the Sarpanch, or, as the case may be, the Up-Sarpanch within, a period of (one year) from the date of such special meeting.

It is clear that in a special meeting of the village panchayat called for the purpose of consideration of motion of no confidence against the Sarpanch or

Up-Sarpanch, a motion is to be moved in the meeting.â€

17. However, paragraph 18 of Viswas Pandurang Mokal] (supra) is also relevant which reads as under :-

â€œ18. We make it clear that though it is clear to our mind that the provisions of the Meeting Rules generally and Rule 17 in particular will apply to

the above extent to a meeting called under section 35, we are not deciding the question as to what is the consequence in relation to validity or

otherwise of a motion of no confidence being passed against Sarpanch or Up-Sarpanch in violation or without following a particular Rule. That

question will have to be decided in each case after considering the nature of the provision, whether the provision is mandatory or directory. In other

words, though it is clear to our mind that the provisions of Rule 17 of the Meeting Rules are to be followed in passing the motion in a meeting called

under section 35, we are not deciding the question as to what is the consequence if the provisions are not followed and the motion is passed. Because,

that question as to whether the provisions of Rule 17 are mandatory or directory has not been referred to us. In our opinion, therefore, the first

question will have to be answered in the affirmative by holding that the provisions of the Meeting Rules generally and provisions of Rule 17 in

particular apply to a meeting convened under section 35.â€

(Emphasis added)

18. Thus, it is clear that the Full Bench in the case of Viswas Pandurang Mokal (supra) has clearly specified that the question whether non-

compliance of Rule 17 of the Bombay Village Panchayats (Meetings) Rules, 1959 (â€œsaid Rulesâ€) affects the â€˜Motion of No Confidenceâ€™™ is

required to be decided in each case. The said aspect is considered by the subsequent decision of Tatyasaheb Ramchandra Kale (supra). The relevant

discussion is in paragraph 18 which reads as under :-

â€œ18. It is to be noted that the Collector has held that notice of motion of no confidence is given by 2/3 rd of the total number of members who are

for the time being entitled to sit and vote at any meeting of the Panchayat as required under Section 35(1) of the said Act and the same has been

passed by 3/4 th of the total number of members who are for the time being entitled to sit and vote at any meeting of the Panchayat as required under

Section 35(3) of the said Act. Thus, it is clear that no confidence motion carried in said meeting dated 5th June 2023 fulfilled the requirement of

Section 35(3) of the said Act. Thus, the Collector has erred in concluding that the meeting in which the motion of no confidence was passed is not

legal as the same was not conducted in accordance with Rules 17 to 26 of the said Rules.â€

(Emphasis added)

19. The said Full Bench decision of Tatyasaheb Ramchandra Kale (supra) discusses Sub Section 3 of Section 44 in paragraph 19, which reads as

under:-

19. The applicability of section 44(3) of the Bombay Village Panchayats Act was sought to be questioned on behalf of the Appellant and the State

on the ground that the said provision applies only when the proceedings of the Panchayat are conducted when there is a vacancy in the Panchayat and

would therefore not apply to a meeting held for passing of a motion of no confidence. In support of the said contention reliance was sought to be

placed on the heading of the said section which is to the following effect; "Vacancy not to affect proceedings of Panchayat".

Insofar as headings being used as a tool for interpretation of a provision is concerned. It is well settled that they cannot control the plain words of the

provision, they also cannot be referred to for the purpose of construing the provision when the words used in the provision are clear and unambiguous

nor can they be used for cutting down the plain meaning of the words in the provision when only in the case of ambiguity or doubt the heading or

subheading may be referred to as an aid in construing the provision. (See *Frick India Ltd. v. Union of India*, AIR 1990 SC 689).

Insofar as sub-section (3) of section 44 of the Bombay Village Panchayats Act is concerned, the said sub-section (3) can be said to be an exception to

subsections (1) and (2) of section 44 of the Bombay Village Panchayats Act. The language of sub-section (3) makes it very clear that it applies to all

acts or proceedings of the Panchayat, and is not restricted to the meeting of the Panchayat held when there is a vacancy. Since the words are very

clear and unambiguous, it is not necessary to take recourse to the heading for interpretation of the said provision. The said provision would therefore

apply to a meeting held for passing of a motion of no confidence. Resultantly, the test whether the defect or irregularity affects the merits of the case

would come into play.

It is further required to be noted that the provision akin to section 44(3) of the Bombay Village Panchayats Act has been recognized as a feature of

modern legislations. The said provision is inserted to put beyond challenge the defect of constitution of the statutory body and defects of procedure

which have not led to any substantial prejudice. The Apex Court has nick-named the said provision as the "Ganga" clause thereby meaning it to

be a clause cleansing the proceedings of any defects. An identical clause/section had come up for consideration before the Apex Court in B.K.

Srinivasan etc. v. State of Karnataka, AIR 1987 SC 1059 and thereafter in Akhil Bharat Goseva Sangh v. State of A.P., (2006) 4 SCC 162. In B.K.

Srinivasan's case the Apex Court was concerned with section 76-J of the Mysore Town and Country Planning Act, 1961. The said section 76-J read

thus:â€

76-J.Validation of acts and proceedings. â€" No act done or proceeding taken under this Act shall be questioned on the ground merely of,

(a) the existence of any vacancy in, or any defect in the constitution of the Board or any Planning Authority;

(b) any person having ceased to be a member;

(c) any person associated with the Board or any planning authority under section 4F having voted in contravention of the said section; or

(d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or

(e) any omission, defect or irregularity not affecting the merits of the case.â€

In the said case section 13(4) and Rule 33 required publication of Outline Development Plan as approved by the Government in the Official Gazette.

What was published in the Gazette was a notice with Outline Development Plan as approved by the Government was available for the inspection at

the office of the Planning Authority during office hours. The Apex Court held that on a proper construction of section 13(4) the publication complied

with its provisions and that even if there was any defect it was cured by section 76-J. The said section 44(3) therefore cleanses the proceedings of

any defect if the same do not affect the merits of the case.

Hence though we have come to a conclusion that Rule 17 of the Meeting Rules is directory however on the touchstone of section 44(3) of the

Bombay Village Panchayats Act and having regard to the fact that the resolution has been passed by a 2/3rd majority, any defect in the

procedure relating to passing of the said resolution can be said to be cured, and therefore, on the application of section 44(3) of the Bombay Village

Panchayats Act, the resolution cannot be said to be vitiated on account of any infirmity in the proceedings.â€

(Emphasis added)

Thus, it is clear that the requirement of Rule 17 in the matter of proposing and seconding the motion cannot impinge upon the validity of the motion of no confidence which has otherwise been passed by fulfilling the requirement of Section 35(3) of the said Act as the said infraction does not affect the merits of the case.

20. Mr. Mhaispurkar, learned counsel appearing for the Petitioners has raised another contention that there was no separate meeting held for considering "Motion of No Confidence"™ against Sarpanch and Upa-Sarpanch. However, perusal of the record shows that on 24.05.2023, seven members, out of nine members submitted two separate notice of "Motion of No Confidence"™ against the Sarpanch i.e. Savita Shrimant Ghule

(The Petitioner in W. P. No. 13310 of 2023) and Upa-Sarpanch i.e. Ganesh Vishnu Hagawne (The Petitioner in W. P. No. 13321 of 2023). In

accordance with the said notice, the Tahsildar issued two separate notices on 24.05.2023 scheduling a special meeting on 30.05.2023 to consider the

said notice of "Motion of No Confidence"™. Two separate notices were issued by Tahsildar regarding "Motion of No Confidence"™ against

Sarpanch i.e. Savita Shrimant Ghule (The Petitioner in W. P. No. 13310 of 2023) and Upa-Sarpanch i.e. Ganesh Vishnu Hagawne (The Petitioner in

W. P. No. 13321 of 2023). The Minutes of the meeting shows that after considering and deciding the "Motion of No Confidence"™ against

Sarpanch, "Motion of No Confidence"™ against Upa- Sarpanch was considered. Therefore, there is no invalidity in the said procedure. Apart

from that, even if it is assumed that there is any deficiency, in view of Section 44(3) of the said Act the same will not affect the position that

"Motion of No Confidence"™ has been carried against the Petitioners by an overwhelming majority i.e. more than 3/4th of the members who are entitled to vote.

21. Accordingly, no interference is warranted under Article 227 of the Constitution of India. The Writ Petitions are dismissed, however, with no order as to costs.

22. At this stage, Mr. Mhaispurkar, learned counsel appearing for the Petitioners has requested for stay of this order. In view of the facts and

circumstances of this case and as “Motion of No Confidence”™ has been carried/passed by an overwhelming majority, said request for stay is rejected.