
Sau. Sangeeta Ranvir Vs The Presiding Officer/Tahsildar and others

Writ Petition No. 235 of 1998

Court: Bombay High Court (Aurangabad Bench)

Date of Decision: Sept. 24, 1998

Acts Referred:

Bombay Village Panchayats (Meetings) Rules, 1959 " Rule 5(2)#Bombay Village Panchayats Act, 1958 " Section 35, 35(2)

Citation: (1999) 2 BomCR 213 : (1999) 1 MhLj 958

Hon'ble Judges: N.P. Chapalgaonker, J; B.H. Marlapalle, J

Bench: Division Bench

Advocate: S.R. Barlinge, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

N.P. Chapalgaonker, J.

The petitioner who was the Sarpanch of the village Suki, tq. Purna, dist. Parbhani challenges a No Confidence

Motion which was passed on 19th August, 1998 against her u/s 35 of the Bombay Village Panchayat Act. There is no dispute that the motion was

passed by requisite majority. Validity of the motion is challenged in this petition. The validity was challenged before Collector and then before the

Commissioner on two grounds viz. (1) that the notice of the said meeting was a proper notice within the meaning of Rule 5(2) of the Bombay

Village Panchayat (Meetings) Rules, 1959 and (2) that the meeting did not take place in the office of the village panchayat, as provided under sub

section (2) of section 35 of the Act and it took place at place other than the office.

2. Mr. S.R. Barlinge, learned Counsel for petitioner, submitted that admittedly the notice was served on 18-8-1997 and the meeting took place on

19th August, 1998 i.e. on the next day, therefore, it will not be a notice in the eye of law.

3. Mr. Barlinge, rightly submits that in the absence of any clear provisions in the Bombay Village Sarpanch & Up-sarpanch (No Confidence

Motion) Rules, 1975, the Bombay Village Panchayat (Meetings) Rules, 1959 will have to be read. Relying on this rule, Mr. Barlinge, submits that

a notice will have to be served at least one clear day in advance on all the members of the panchayat. He invited our attention to the definition of

Clear Day""', defined in Clause (A) of Rule 2 submitted that day of issuance of the Notice and the day on which the meeting took place both will

have to be excluded.

4. Sub rule (2) of Rule 5 of the Rules, which reads as under :

The Secretary shall, at least one clear day, before the date fixed for a Special Meeting, send or caused to be sent to all the members intimation of

the date, time and place of such Special Meeting and of the business to be transacted thereat.

What is provided by the rule is time at which the notice is to be sent or caused to be sent by the Secretary.

5. The Sub-rule (2) as quoted above, does not require that a notice should be served on member at least one clear day in advance. It speaks

about the despatch or sending of the notice. Admittedly, the notices were sent by the Tahsildar on 18-8-98 and therefore, it was sent at least one

clear day before the date fixed for the Special Meeting. In this view of the matter, there was a sufficient compliance of the Rule.

6. Another objection raised by Mr. Barlinge is based on sub-section (2) of section 35 which reads as under :

The Tahsildar shall invite a Special Meeting of the Panchayat for considering Motion of No Confidence at the Office of the Panchayat at time to

be appointed by him.

7. The provision will have to be read reasonably. A meeting is to take place in the office of the Panchayat so that everybody should know this

place at which they have to gather. In the present case, construction material including sand and centering plates was stored in the office of

Panchayat. One room adjacent to the office of the panchayat, in the same building, houses a school. Therefore, since the room which is called to

be office of the Panchayat was not available and therefore, the meeting took place in the adjoining room. We do not think that there is any

contravention of any mandatory provisions. If the room in which the Village Panchayat Office is situated, is not available for one or the other

reason and just adjacent to it, in the same building, the meeting takes place, we are sure that every member, who intends to attend the meeting,

would know that the meeting is taking place in the adjoining room. Therefore, even on this count we find that there was sufficient compliance.

8. Both the contention of the petitioner pressed in service for challenging the Motion fails and petition stands rejected summarily.

9. Petition rejected.