

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.4198 OF 2014

1. Shivaji s/o Bajirao Thorat,
Age 32 years, Occu.Agri.,
R/o Sultanwadi, Taluka
Phulambri, Dist.Aurangabad
2. Vidya w/o Macchindra Shinde,
Age 40 years, Occu. Household
and Agriculture,
R/o Sultanwadi, Taluka
Phulambri, Dist.Aurangabad
3. Radhabai w/o Sahebrao Bakhale,
Age 47 years, Occu. Household
and Agriculture,
R/o Sultanwadi, Taluka
Phulambri, Dist.Aurangabad .. Petitioners

Versus

1. The State of Maharashtra,
Through Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The Additional Divisional Commissioner,
Aurangabad Division, Aurangabad
3. The Collector, Aurangabad
District Aurangabad
4. Zilla Parishad, Aurangabad,
through President
5. Zilla Parishad, Aurangabad,
through Chief Executive Officer
6. Deputy Chief Executive Officer
(Panchayat), Zilla Parishad,
Aurangabad

7. The Block Development Officer,
Class-1, Panchayat Samiti,
Phulambri, Taluka Phulambri,
District Aurangabad
8. The Grampanchayat,
Sultanwadi, Taluka Phulambri,
District Aurangabad
Through Gramsevak
9. Shivaji s/o Geetaram Shinde,
Age 43 years, Occu. Agri.,
R/o Sultanwadi, Taluka
Phulambri, Dist.Aurangabad .. Respondents

Mr S.B. Ghute, Advocate for petitioners
 Mr K.G. Patil, A.G.P. for respondents No.1 to 3
 Mr Mr Munde, Advocate for respondents No.4 to 7
 Mr B.V.Thombre, Advocate for respondent No.8
 Mr M.S.Markad, Advocate h/f Mr S.S. Thombre, Advocate for
 respondent No.9

CORAM : N.W. SAMBRE, J.

DATE : 25th March 2015

PER COURT

1. During course of hearing, the learned Counsel for the petitioners, upon instructions, has given up the issue as regards the limitation i.e. issue of condonation of delay. As such, the appeal preferred by the respondents is held to be within limitation.
2. Matter was heard at length. I have perused the report signed by the Block Development Officer, Class-1, Panchayat Samiti, Phulambri and Extension Officer of the said Panchayat Samiti.
3. The said report deals with the record of the Gram Panchayat in relation to each monthly meeting.

4. If we peruse the said report and test the legality of the order passed by the Additional Commissioner, Aurangabad Division, Aurangabad in Appeal No.ZPVP/APPEAL/CR/138/2013, it reveals that the learned Additional Commissioner has passed a cryptic order without referring to said report in detail, i.e. as regards the view expressed by the said Officers about conduct of each of the meeting, attendance of petitioner, maintenance of record by the Gram Panchayat etc.

5. It is also required to be noted that though order passed by the President of the Zilla Parishad in exercise of powers under Section 40 of the Bombay Village Panchayats Act speaks about the conduct of the Secretary of the Village Panchayat as is reflected in the report submitted by the Block Development Officer, same are not dealt with in the order impugned in the petition.

6. As such, the order dated 23rd April 2014 passed by the respondent No.2 - Additional Divisional Commissioner, Aurangabad Division, Aurangabad in ZPVP/APPEAL/CR/138/2013 is hereby quashed and set aside. The said appeal is restored to the file of Additional Divisional Commissioner, Aurangabad Division, Aurangabad, who is directed to decide the same in view of Section 40 of the Bombay Village Panchayats Act.

7. The parties have agreed that they will appear before the said authority on 6th April 2015 along with written notes of arguments.

8. In view of the fact that the term of the Village Panchayat is

expiring in July, it is expected of the Officer entrusted with the appeal to decide the same within a period of eight weeks from the date of communication of this order.

(N.W. SAMBRE, J.)

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