

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4876 OF 2014
WITH CA/817/2015 IN WP/4876/2014

AKTTAR MANSOOR PATEL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. V.D. Salunke
Mr. D.R. Korde, AGP for respondent No.1,2 and 4.
Mr. S.N. Patne, Advocate for respondent No.3

CORAM : N.W. SAMBRE, J.
DATE : 17TH MARCH, 2015.

PER COURT:

1] Heard Shri Salunke for the petitioner. Shri Salunke, in compliance of the order dated 10.2.2015 and the order dated 3.3.2015, has produced original copy of the document at Exhibit B, dated 13.9.2013 for the perusal of this Court. After perusing the said document, same is returned to the learned counsel for petitioner - Shri Salunke.

2] The order impugned is dated 8.3.2014 passed by the Additional Collector, Osmanabad in exercise of powers under Section 179(2) of the Bombay Village Panchayat Act, 1958. The recourse was taken to the detention of the petitioners in the civil prison for non submission of the original record of the Gram Panchayat, which record, according to the petitioner was handed over the Village Development Officer who has sought to intervene in the present matter.

3] In the order impugned, the Additional Collector, has referred to the document dated 13.9.2013 i.e. acknowledgement and disbelieved the same, as the original of the same was not produced and which according to him was no in appropriate form. The original of the same, as observed above, is perused by this Court, which learned counsel for the petitioner is ready and willing to place on record of the Additional Collector alongwith an affidavit.

4] In view thereof, it will be appropriate in my opinion, that the penal order dated 18.3.2014 impugned in the present petition is to be quashed as not sustainable in law. As such, the same is quashed and set aside. Matter is remitted back to the Additional Collector, Osmanabad, who is directed to consider the affidavit and the original document dated 13.9.2013 issued under the signature of the concerned Village Development, which is placed at Exhibit B of the petition and upon examining the same, to pass fresh order after hearing the petitioner, intervenor and all the parties concerned, who are likely to be affected.

5] With the above observations, writ petition stands disposed. In view of the disposal of the writ petition, civil application, if any also stands disposed of.

**[N.W. SAMBRE]
JUDGE.**

grt/-