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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5705 OF 2015

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| 1. | Anjanabai Premsingh Naik
Age – Major, Occ – Agriculture | PETITIONERS |
| 2. | Arunabai Eknath Patil,
Age – Major, Occ – Agriculture | |
| 3. | Lilabai Amarsingh Naik
Age – Major, Occ – Agriculture | |
| 4. | Vaijyanatabai Shalik Sonawne
Age – Major, Occ – Agriculture | |
| 5. | Shridhar Deva Naik
Age – Major, Occ – Agriculture | |
| 6. | Mangalabai Dashrath Bhil
Age – Major, Occ – Agriculture | |

All R/o Khadki, Taluka – Jamner
District – Jalgaon

VERSUS

- | | | |
|----|---|-------------|
| 1. | The State of Maharashtra
Through its Secretary,
Department of Rural Development,
Maharashtra State,
Mantralaya, Mumbai-32 | RESPONDENTS |
| 2. | The Additional Commissioner,
Nashik Division, Nashik | |
| 3. | The Collector, Jalgaon
Collector Office Premises,
Akashwani Chowk,
Jalgaon, District – Jalgaon | |

4. The Gramsevak,
Group Grampanchayat, Khadki
Taluka – Jamner, District – Jalgaon

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Mr. Gajendra D. Jain, Advocate for the petitioners
Mr. S. P. Daund, AGP for respondent State
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 6th AUGUST, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. After hearing learned advocates for the parties, it appears to be the grievance of the petitioners that no proper opportunity had been given to them to address the allegations made under the notice and further that only on the basis of notings on the proceeding sheet, the orders have been passed. It is being submitted that the requisite resolution could not be furnished before the date of hearing for want of availability of concerned *gramsevak* and as such, *gramsabha* could not be conducted. It is further being pointed out that similar notices were issued to about eighty two members of different *gram panchayats* and that all the matters are purported to have been considered and

decided on the same day.

3. Learned advocate for the petitioners submits that no proper opportunity of hearing had ever been afforded to the petitioners and under the circumstances, the orders impugned are in breach of noble principles of natural justice. He further submits that the appellate authority as well has not considered these submissions and purported to conclude that the orders passed by the collector are correct and proper. Learned advocate submits that the commissioner, although has referred to that the petitioners had produced concerned photographs and some documents, he had not considered the same, for, those were not produced before the collector. Learned advocate has submitted that the collector had not afforded proper opportunity to the petitioners and under the circumstances the commissioner ought to have given its due to said submission, however the impugned orders depict non application of mind to the same.

4. Learned AGP, however, submits that looking at observations as are appearing in the impugned orders, one thing emerges is that the petitioners do not comply with the requisites under section 14 (1) (j-5) of the Maharashtra Village Panchayats Act. He, submits that all other contentions, as such, stand

relegated to background and lose their significance. He, however, is not in a position to justify that the collector could consider so many matters on the same day. This, to a large extent shows that the orders have been passed in haste and / or mechanically.

5. In the present case, it appears from the proceeding sheet that the petitioners had sought some time, though not clearly appearing in the proceeding sheet. It is a well known maxim that "*justice should not only be done, but it should also appear to have been done*". Taking the same into account, I deem it appropriate that the impugned orders deserve to be reconsidered.

6. Under the circumstances, the impugned orders dated 17th January, 2014 passed by Collector, Jalgaon and dated 27th March, 2015 passed by Additional Commissioner, Nashik stand set aside. The matters stand remitted to collector for re-consideration. However, this would not tantamount to reinstatement of the petitioners. *Status quo* as on the date be maintained till proper orders are passed by the collector.

7. The collector is expected to decide upon the matters with respect to petitioners as expeditiously as possible, preferably within a period of six weeks from the date of receipt of writ of

this order.

8. Writ petition stands allowed to aforesaid extent. Rule is made absolute in aforesaid terms with no orders as to costs.

[SUNIL P. DESHMUKH, J.]

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