

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

WRIT PETITION NO. 7107 OF 2014

Shilabai w/o Shankarrao Bomale,
Age: 45 years, Occ: Sarpanch,
R/o. Jaldhara, Tq. Kinwat, Dist. Nanded. ...Petitioner

versus

1. The State of Maharashtra,
Through the Additional District
Collector, Nanded.
2. Kishan s/o Rajarao Dhole,
Age: Major, Occ: Agri.,
R/o. Jaldhara, Tq. Kinwat,
Dist. Nanded.
3. Devraj s/o Punjaji Shirde,
Age: Major, Occ: Agri.,
R/o. Jaldhara, Tq. Kinwat,
Dist. Nanded.
4. Gramsevak Grampanchayat officer,
Jaldharan, Tq. Kinwat, Dist. Nanded. ...Respondents

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Mr. P. B. Rakhunde, Advocate for petitioner.
Mrs. Yogita M. Kshirsagar, A.G.P. for respondent/State.
Mr. M. M. Bhokariker, Advocate for respondent Nos.2 and 3.
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CORAM : N.W. SAMBRE, J.

DATE : 2ND MARCH, 2015

ORAL ORDER :

. The petitioner claims to have elected as Sarpanch of Grampanchayat in a meeting held on 29/07/2011 and upon initiation of the disqualification proceedings in the light of the provisions of

Section 7 and Section 34 of the Bombay Village Panchayat Act (hereinafter shall be referred to as 'the Act' for the sake of brevity) for not holding Gramsabha and monthly meetings, show cause notice was caused on the petitioner by the Collector, Nanded on 01/11/2013.

2. Consequent thereof, the petitioner submitted her explanation resulting into passing of order adverse to the petitioner on 08/05/2014 whereby the petitioner came to be disqualified in view of non-compliance of requirements of Section 7 of the Village Panchayat Act for not holding adequate number of Gramsabhas as prescribed under section 7 of the Act.

3. Learned Counsel for the petitioner while assailing the order would urge that after having been elected as Sarpanch in the special meeting dated 29/07/2011 upto 31/03/2012, she has held two Gramsabhas. He would further urge that from 01/04/2012 to 31/03/2013 petitioner has held four meetings.

4. He submits that for 2012-2013 there is no dispute as she has to convene minimum four Gramsabhas as required under Section 7 of the Act whereas he submits that for the earlier year in which election took place, she was not duty bound to convene

minimum four Gramsabhas.

5. In addition to above, he would urge that there is procedural lapse on the part of authority while ordering her disqualification i.e. no specific charge was framed against the petitioner as regards violation of Section 7 of the Act. In support of his contention, he has relied upon the judgment of this Court in the matter of ***Sunil Daulat Patil Vs. State of Maharashtra & ors.*** reported in ***2014(2) Mh.L.J. 597*** so as to canvass that specific charge should have been framed against the petitioner, which would have enable her to answer the same in a proper manner. He would further urge that, framing of charge and supplying material relied upon by complainant-respondent, is mandate under statute and non-compliance thereof results in denial of opportunity of hearing. He submits that, the order impugned dated 08/05/2014 is not sustainable.

6. Mr. Bhokariker, learned Counsel for the original complainant-respondent would urge that, the statute does not identify particular procedure, to be adopted i.e. framing of charge against the petitioner while seeking disqualification. He would urge that, framing of charge or non-supply of material would not result in non-compliance of mandatory provisions unless substantial

prejudiced to that effect is demonstrated before the Court or authority. He further urged that, the provisions of Section 7 of the Act are mandatory and it is demonstrated from the record of the Grampanchayat that the petitioner has failed to hold the meetings as she was duty bound under the statute. He prays for dismissal of the writ petition.

7. Having perused notice dated 01/11/2013 issued by the Collector, calling upon petitioner so as to answer the allegation of disqualification for non-compliance of provisions of Sections 7 and 34 of the Act, it is noticed that, the said is simplicitor communication calling upon petitioner to answer the complaint preferred against her. What is expected of the respondent-Collector is to frame specific charge qua violation of mandatory provisions in the background of facts alleged against petitioner, after having been satisfied *prima facie* from the allegations in the complaint, about existence of violation. Non-satisfaction of the authority would be reflected from the very conduct of authority of non-framing of charge, perhaps that is one of the reason why this Court has already taken view, as rightly pointed out by learned Counsel for the petitioner in the matter of **Sunil** (supra) that, specific charge has to be framed against the person whose disqualification is sought for. In the present case, it is noticed that no specific charge was framed against the petitioner.

8. In that view of the matter, in my opinion, the order passed by the respondent-Collector ordering disqualification of the petitioner from the post of Sarpanch dated 08/05/2014 is not sustainable.

9. As such, the impugned order dated 08/05/2014 is hereby quashed and set aside. The matter is remanded back to the respondent-Collector with directions to frame specific charge as regards non-compliance of requirements under Sections 7 and 34 of the Act, and shall proceed further in accordance with the law. Proceedings before the respondent-Collector are expedited. It is expected of the respondent-Collector to take the proceedings to its logical end within four months from the communication of this order.

[N.W. SAMBRE, J.]