

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.9955 OF 2015

Dinesh Shantaram Jaitapkar

.. Petitioner

Versus

Ramchandra Narayan Sarvankar and others

.. Respondents

Shri. Saurabh Butala & Harshad Sathe, for the Petitioner.

Ms. Prabha U. Badadare, for the Respondent No.1.

Shri. S. D. Rayrikar, AGP for the Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 08th MAY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 18.03.2015 passed by the Divisional Commissioner, Konkan Division by which order the application filed by the Respondent No.1 for removal of the Petitioner as a member of the Zilla Parishad came to be allowed and resultantly, the Petitioner was removed as a member of the Zilla Parishad.

2. The proceedings under Section 40 of the Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961 were initiated against the Petitioner by the Respondent No.1 as the Petitioner was continuously absent for 9 meetings of the Zilla Parishad between 30.09.2013 till

03.12.2014. In so far as the application is concerned, the same was placed for hearing on 12.02.2015 and thereafter on 24.02.2015 and the impugned order came to be passed on 18.03.2015. In so far as the hearing on 12.02.2015 is concerned, the Petitioner was not present, but was represented by his advocate Shri. Shashikant Sutar. It was at the request of the advocate for the Petitioner that the hearing of the proceedings was deferred till 24.02.2015 to enable the Petitioner to file a reply. On 24.02.2015 neither any reply was filed on behalf of the Petitioner nor his advocate was present. The Divisional Commissioner accordingly closed the matter for orders on the said day. It appears that thereafter the Petitioner filed his reply on 11.03.2015. The Divisional Commissioner having regard to the fact that the Petitioner was not represented and no submissions were advanced on behalf of the Petitioner accepted the case of the Respondent No.1 that the Petitioner had remained continuously absent for 9 meetings between 30.09.2013 till 03.12.2014 and passed an order removing the Petitioner as a member of the Zilla Parishad. It is required to be noted that the Petitioner was arrested in an offence registered under Section 420 and other provisions of the IPC and Section 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors Act, 1999. It appears that after the Petitioner was released on bail that he did not remain present for 9 consecutive meetings.

3. The Learned Counsel for the Petitioner sought to contend that the notices of the said meetings were not received by the Petitioner and that the Petitioner had informed of his inability to attend the meetings. It is impossible to accept the said contention urged on behalf of the Petitioner, that the Petitioner was not aware of the meetings of the Zilla Parishad, having regard to the fact that the Petitioner is a member of the one of the committees of the Zilla Parishad. It seems that the Petitioner is at present incarcerated in view of the fact that the Petitioner flouted the bail conditions. In my view having regard to the aforesaid facts the contention of the Petitioner that he had not received the notices of the meetings cannot be accepted. In so far as the hearing before the Divisional Commissioner is concerned, admittedly no appearance was put on 24.02.2015 when the matter was fixed for hearing before the Divisional Commissioner. It is on account of the said fact that the Divisional Commissioner had to close the matter for orders as no application was made on behalf of the Petitioner for adjournment. In my view, the principles of natural justice therefore cannot be said to be violated. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]