

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1845 OF 2015

Smt. Mangal H. Deokar .. Petitioner
vs.
The Additional Collector, Pune
Dist. Pune and ors. .. Respondents

Mr. S.M. Sabrad for the Petitioner.
Ms Vaishali Nimbalkar, AGP for Respondent Nos.1, 2 and 4.
Mr. Prashant S. Aavate, Tehsildar Khed, Dist. Pune present.

CORAM : M. S. SONAK, J.
DATE : 4 MARCH, 2015.

P.C. :-

1] This petition is directed against the order dated 13 February 2015 made by the Additional Collector in the matter of Division of village into wards under Rule 3 of the Bombay Village Panchayats (Number of Members, Divisions Into Wards and Reservation of Seats) Rules, 1966 (said Rules) read with Section 10(1) (b) of the Bombay Village Panchayats Act, 1958 (said Act).

2] The complaints of the petitioner are broadly three fold:

(a) That though the notice was given to the petitioner for hearing on 9 February 2015, the petitioner was informed that she will not be heard and was asked to leave the office. Further it is the case of the petitioner that she was asked to

sign the blank papers and even though she was not ready, she was forced to sign the same;

(b) That the Tehsildar, had initially submitted a report, which was favourable to the interest of the petitioner. However, the Additional Collector required the Tehsildar to submit yet another report, which was contrary to the interest of the petitioner; and

(c) That consequent upon the division finally approved, Ward No.5 shall have 300 voters and Ward No.6 shall have 523 voters. This is contrary to the principle, which is mandatorily required to be followed in matters of division of village into wards as provided under Rule 3 of the said Rules.

3] Insofar as the petitioner's first contention is concerned, there is no dispute that the petitioner was served with notice of the hearing and the petitioner was also present on the date of hearing. Ms Nimbalkar, learned AGP for respondent Nos.1,2 and 4 has produced on record roznama-sheet which indicates that the petitioner has also signed thereon in token of her presence. In exercise of writ jurisdiction, it is not possible to adjudicate into the disputed issues like the alleged information given to the petitioner that she would

not be heard or that she was forced to sign upon some blank papers. There is no scope to entertain the first contention raised by and on behalf of the petitioner.

4] Insofar as second contention is concerned, again it is to be noted that the Additional Collector is the authority prescribed for division of village into two wards. For this purpose, the Additional Collector may invite inputs from the Tehsildar concerned, however, the reports of the Tehsildar are only the inputs which the Additional Collector is required to take into consideration. Therefore, it matters little that the Tehsildar submitted two reports, in the present case. Ultimately, the decision is that of the Additional Collector.

5] Thirdly, Rule 3 of the said Rules provides that the principles to be applied in the matter of divisional of village into two wards. One of the principle is that a village shall be divided into suitable number of wards so, however, that the ratio between the number of members to be elected from each ward and the population thereof shall, as far as practicable, be the same throughout all the wards in a village.

6] Ms Nimbalkar, learned AGP rightly pointed out that the Rules do not make reference to the 'voters' in each ward, but to the 'population' of the ward. This distinction is sufficient to reject the third contention raised by and on behalf of the petitioner. In the present case, after the division brought about by the impugned order, the population of Ward No.5 is 1556 and that of Ward No.6 is 1679. Ms Nimbalkar submitted that the State Election Commission has issued directives, which permit variation of population figures to the extent of 10%. In the present case, the variation is well within 10% mark. Rule 3 of the said Rules itself states that the ratio between the number of members to be elected from each ward and the population thereof shall, "*as far as practicable*", be the same throughout all the wards in a village. The proviso to the Rule also requires that the geographical situation of a village shall be taken into consideration and geographical continuity of the area shall, as far as practicable, be followed. The impugned order, by which, division has been effected is entirely consistent with the principles laid down in Rule 3 of the said Rules.

7] The petitioner has, alongwith the petition at page 34 produced a map of the village, indicating thereon the division of wards, which

according to the petitioner was approved by the Gram Sabha and had to be maintained. The map would indicate that a triangular portion has been introduced in otherwise what constitutes Ward No.6. The said triangular portion, is also across some village road seen in the map. In fact, if such position were to be sustained, the same would possibly be inconsistent with the second proviso to Rule 3, which refers to geographical situation of the village as also geographical continuity of the area.

8] For all these reasons, there is no merit in this petition. Accordingly, petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

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