

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 4777 OF 2016

SHEKHAR SAMBHAJI SHIRALKAR
VERSUS
THE ADDITIONAL COLLECTOR LATUR AND OTHERS

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Advocate for Petitioner : Mr. Suhas P. Urgunde.
AGP for Respondent / State : Mr. S. K. Tambe.
Advocate for Respondent No.5 : Mr. T. M. Venjane.

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CORAM : **T. V. NALAWADE, J.**
DATE : 25th October, 2016.

ORDER:

. The petition is filed to challenge the order made by the Additional Collector, Latur by which the proceedings filed for disqualification by the present Petitioner is dismissed by the Collector.

2 Respondent Smt. Lata is Sarpanch of village Arvi, Tahsil and District Latur. The preset Petitioner filed application before the Collector against her and he made allegation that the Sarpanch did not convene the monthly meetings in the months of September, November and December, 2015 and due to that, she is liable to be disqualified under the provisions of Section 36 of the Bombay Village Panchayat Act, 1958. Show cause notice was issued and the Sarpanch filed reply. She contended that at the relevant time, Gram Sevak was sick,

he had suffered injuries in one accident. She contended that she had given letters to Gram Sevak on 20th November, 2015 and 21st December, 2015 and she had asked him to call the meeting, issue notices in the months of November and December, but he informed his inability due to his sufferings and due to that the meetings were not held. She contended that against her, there was possibility of losing of the post as she had not obtained validity certificate of her caste. It is her case that the Caste Scrutiny Committee had returned her proceedings by holding that it had no jurisdiction and in a writ petition this Court had granted her time to see that validity certificate was obtained and produced. She contended that due to the circumstances, she was busy and following up the matter of validity certificate in respect of her caste and due to that also she could not call the meetings. She contended that she had done all the work and no work was left which could have been considered in the monthly meetings.

3 The learned counsel for the Petitioner drew attention of this Court to the provisions of Section 36 of the aforesaid Act and Rule 3 of the Meeting Rules. He has submitted that it is incumbent on the part of the Sarpanch to convene one meeting in every month and that is the mandatory provision. He placed reliance on the following three

cases:

- (i) **Gunwantrao Yeshwantrao Deshmukh Vs. State of Maharashtra and another**, reported in, **AIR 1982 Bombay 295**;
- (ii) **Ramkishan s/o Laxman Kamble Vs. The State of Maharashtra**, (**Writ Petition No.2381 of 2008, decided by this Court on 5th June, 2008**) ; and
- (ii) **Ganesh Rangnath Dandage Vs. The Minister for the Village Development and Panchayatraj Department and others** (**Writ Petition No.3637 of 2016, decided by this Court on 22nd September, 2016**).

4 It is true that convening the monthly meeting is mandatory, but there is a rider that if there is sufficient cause, the Sarpanch can escape from the disqualification. Provisions of Section 36 show that the decision of the Collector is final. Thus, if there is subjective satisfaction of the Collector on the point of sufficient cause, it is up to the Collector to hold that it is not possible to disqualify the Sarpanch. The aforesaid contentions are accepted by the Collector. The learned counsel for the Petitioner produced two documents to show that Gram Sevak was discharging the duty and he had issued Form-A on two

occasions. He submitted other staff was available and so it cannot be said that there was sufficient cause for not convening the meeting.

5 While exercising the writ jurisdiction, this Court is expected to see as to whether there is material on the basis of which the Collector found that there was sufficient cause. When subjective satisfaction of the Collector is involved, there is not much scope for this Court to interfere in the decision given by the Collector. In view of the above circumstances, this Court holds that it is not possible to interfere in the decision given by the Collector. The petition stands dismissed.

[T. V. NALAWADE, J.]

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