

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7586 OF 2016

1 Smt. Kantabai w/o Satish Gaike
Age: 35 years, occu: household,
presently Sarpanch of Newasa Gram Panchayat
R/o Lokhandgalli, Newasa (Khurd)
Tq. Newasa, District Ahmednagar

2 Sunil S/o Digambar Dhayage,
Age: 41 years, occu: business,
R/o Newasa, Tq. Newasa,
District Ahmednagar

Petitioners

Versus

1 The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai 32

2 The Collector,
Ahmednagar

3 The Tahsidlar,
Newasa

4 The Chief Executive Officer,
Zilla Parishad, Ahmednagar

5 Block Development Officer,
Panchayat Samiti, Newasa

6 Mr. P.G. Nimse
Extension Officer,
Gram Panchayat/Panchayat Samiti
Newasa

Respondents

Mr.V.D. Sapkal advocate for the petitioners
Mr. K.N. Lokhande, Assistant Government Pleader
for Respondents No.1 to 3
Mr. S.T. Shelke, advocate for respondent No.4 to 6

CORAM : **R.M. BORDE &
K.K. SONAWANE, JJ**

(Date : 20th August, 2016.)

ORAL JUDGMENT

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken up for final decision at admission stage.

3 The petitioners are objecting to the order passed by the Chief Executive Officer, Zilha Parishad, Ahmednagar on 4.7.2016 and the communication issued on 8.7.2016 by the Block Development Officer. The Chief Executive Officer, by virtue of communication dated 4.7.2016 has directed appointment of an administrator, for managing the affairs of the Village Panchayat. It is recorded in the order that, the Notification issued by the State Government on 17.11.2014, deciding to convert Village Panchayat into smaller urban area, so also a further Notification issued by the Village Development Department on 17.11.2015, directing deletion of area of Nevasa village from the concerned block and appointing an administrator for administering affairs of

Nevasa smaller urban area have been quashed by the High Court by order dated 5.4.2015 in Writ Petition No.11995 of 2014.

4 The petitioner contends that, the elections to the Village Panchayat were conducted in the year 2015 and the term of the elected body, in terms of provisions of the Act, as well as the constitutional provision is for a period of five years. It is the contention of the petitioners that, as consequence of quashment of the Notifications issued by the State Government, directing conversion of a Village Panchayat into smaller urban area, original position shall have to be restored and affairs of the Village Panchayat shall have to be permitted to be managed by the elected body of the Village Panchayat. The Chief Executive Officer has committed an error in law in directing the appointment of an administrator by taking recourse to section 35 of the Maharashtra Village Panchayat Act 1959. Section 35 of the Act empowers the Chief Executive Officer to appoint an administrator in the event of moving motion of no confidence and passage thereof. In the instant matter, the provisions of Section 35 cannot be said to have been attracted.

5 Learned counsel appearing for Zilha Parishad, on

instructions, states that, the communication dated 4.7.2016 issued by the Chief Executive Officer shall stand withdrawn and as a consequence there-of, the communication dated 8.7.2016 issued by the Block Development Officer does not survive. As a result of withdrawal of the communication dated 4.7.2016 the affairs of the village Panchayat shall have to be managed by the elected body of the Panchayat.

6 Counsel appearing for the petitioners invites our attention to article 243-E of the Constitution which prescribes that, every Panchayat, unless sooner dissolved under any law, for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer. Section 27 of the Maharashtra Village Panchayat Act prescribes the term of office of the members to be five years and in view of section 28 of the Act, the term of office of the members elected at the general election or appointed under subsection (3) of Section 10 shall be deemed to commence on the date of the first meeting of the Panchayat.

7 In the instant matter, since the Notifications relating to conversion of Village Panchayat into urban area, has been quashed and set aside, as a necessary consequence, the position

of the Village Panchayat shall stand restored and the elected body shall be permitted to continue to administer the affairs of Village Panchayat and it is accordingly ordered.

8 Rule is accordingly made absolute.

9 There shall be no order as to costs.

(K.K. SONAWANE, J)

(R.M.BORDE, J)