

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

WRIT PETITION NO. 7306 OF 2014

BHARATBAI MAROTRAO NIRMAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. G. N. Chincholkar.
AGP for Respondent / State : Mr. A. P. Basarkar.
Advocate for Respondent No.4 : Mr. P. B. Rakhunde.

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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 learned Additional Collector in Disqualification Proceeding No.141 of 2013 filed by Respondent Dattarao Mirase. Both the sides are heard.

2 The present Petitioner was elected to the post of Sarpanch on 12th November, 2012. Application was moved against her by Dattarao and he had contended that no development activity was undertaken by the present Petitioner and she was not holding monthly meetings and Gram Sabhas as required by law and so she needs to be disqualified. There was specific contention made that when it was necessary to hold atleast one Gram Sabha and one monthly meeting during the financial year 2012-13, not a single

meeting was held. It was contended that in subsequent financial year monthly meetings were not held and special Gram Sabhas were also not held. There were allegations that required number of Gram Sabhas were not held during the period 2013-14. The proceeding was filed on 13th November, 2013. The present Petitioner did not appear in the proceeding to contest the matter. The record was called by the Collector alongwith the report of Gram Sevak, who was also the party to the proceeding. The Collector came to the conclusion that necessary numbers of Gram Sabha were not convened and held and many monthly meeting were also not convened by the Sarpanch. Admittedly, in the financial year 2012-13, not a single monthly meeting was held and Gram Sabha was also not held even on 26th January, 2013. Though it can be said that the Collector was expected to consider the ground of not holding monthly meetings only, the fact remains that prior to every Gram Sabha, a meeting of Village Panchayat was required to be convened to fix the agenda for Gram Sabha. The Petitioner has contended that notice of aforesaid disqualification proceeding was not served on her and so opportunity needs to be given to her to have a decision on merits by filing say and by producing relevant documents on record. In that regard, there is affidavit filed in the present proceeding on behalf of Respondent No.2,

Tahsildar. It shows that notice of proceeding was sent for service to the residential place of present Petitioner, but she refused to accept it and so the serving officer affixed copy of notice on outer door of the residential place of the Petitioner and Panchanama was accordingly made. In the original record, the said report is at page No.107. In view of this circumstance, there is no force in the contention of the present Petitioner that notice was not served on her and so on that ground the order needs to be set aside.

3 It is already observed that in the financial year 2012-13 no meeting at all was held by the Petitioner of Village Panchayat and it is not disputed that in the month of June, October and November 2013, monthly meetings were not held. In the present proceeding, the Petitioner has contended that Secretary, Gram Sevak was on medical leave and due to that she could not convene the monthly meetings. She has produced a copy of report given to Block Development Officer dated 31st December, 2012 to show that Gram Sevak was not turning up. She had requested to change the Gram Sevak. Only on the basis of this record, this cannot be said that due to absence of Gram Sevak she could not convene the meeting. In view of the provisions of the Act and Rules, it is possible for her to use other staff also and she

could have requested for making other arrangement if Gram Sevak was not available in the particular month. Gram Sabha, Gram Panchayat and ultimately Sarpanch is supervisory Authority on the staff created for Village Panchayat. Thus, excuse given by the Petitioner of aforesaid nature cannot be accepted. She has produced copy of leave application given by the Gram Sevak on 20th October, 2013 showing that he was proceeding on medical leave. As the meetings were not held in June and October also, this application of Gram Sevak cannot help the Petitioner much. Further the application does not show that for any particular period, Gram Sevak had remained absent. The letter given by the Petitioner to Block Development Officer on 16th November, 2013 shows that she had informed that for two months Gram Sevak was not turning up and she had requested to do the needful in that regard. No record is produced to show that he was on leave of the relevant time and any action was taken by the Petitioner if he was not turning up for about two months prior to 16th November, 2013. On the basis of record it can be said that monthly meeting of September was held and if the Petitioner was taking help of Gram Sevak it can be said that in the month of September and also July and August, 2013, he was there.

4 There is one more ground which could have been considered under other provisions like Section 39 by learned Commissioner like not holding Gram Sabhas. In view of the circumstances and as the Petitioner preferred not to contest the matter, which was filed against her before the learned Collector, this Court holds that it is not possible to interfere in the order made by the learned Collector. In the result, the writ petition stands dismissed. Interim relief is vacated.

[T. V. NALAWADE, J.]

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