

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 9989 OF 2016

SOW. SUSHILA W/O BALAJI GHUME
VERSUS
VIKAS S/O. TRIMBAK SWAMI AND ORS.

...
Advocate for petitioner : V.D. Gunale
AGP for respondent Nos. 1 and 2 : S.K. Tambe
...

CORAM : T.V. NALAWADE, J.
DATED : 5th October, 2016.

ORDER :

1. The petition is filed to challenge the order made by the learned Additional Commissioner, Aurangabad in a proceeding which was started under section 7 r/w. 14(1) (g) of the Maharashtra Village Panchayats Act, 1958 (hereinafter referred to as 'the Act' for short). Both the sides are heard.

2. The proceeding was started on the basis of complaint given by four persons of village Algarwadi against the petitioner - Sushilabai and it was contended that present petitioner is guilty of misconduct as she misused post of Sarpanch by giving money to her husband and to her employee by cheque by showing that the amount was given for purchasing some material for execution of the work. Five cheques were given of the total amount of Rs. 76,000/- to Balaji Ghume,

husband of the petitioner and two cheques of total amount of Rs. 26,000/- were given to Jairam Khatke, employee of family of present petitioner. Three cheques which were handed over to husband were given for purchase of material from Mayur Traders of which the husband Balaji Ghume is a partner and remaining cheques were given to the husband when the amount was to be paid to the labour allegedly appointed for execution of some work. Inquiry was made by the Chief Executive Officer and it was noticed that such cheques were issued. The Block Development Officer first made inquiry. In the proceeding bearing No. 2014, the Collector had initially held that misconduct was not proved and had rejected the application. In Appeal No. 107/2015, learned Additional Commissioner set aside the order of learned Additional Collector and has held that misconduct as mentioned in section 14 (1) (g) of the Act is proved. The circumstance that the cheques were issued in favour of husband and employee is considered. It is not disputed that the husband is partner in Mayur Traders from which some material is shown to be purchased. The learned counsel for petitioner submitted that amount was actually utilized for the work executed by Village Panchayat and so, only on the basis of the circumstance that cheques were issued in favour of husband and one employee, the order could not have been made. It can be said that in view

of the wording of the aforesaid provision, the purchase ought not to have been made from the husband as such transaction is sufficient to take the case to aforesaid provision. Further, there is allegation that there were no necessary resolutions of Village Panchayat in that regard. Inference is possible that for the benefit of the husband and family, the cheques were issued in the name of husband. Other inference of even misappropriation can be drawn due to such circumstances. Sufficient opportunity was given to explain the things to the petitioner, but she could not explain the things. In view of these circumstances, there was no other alternative before the Additional Commissioner than to set aside the order of learned Additional Collector and to pass the order of disqualification against the present petitioner.

3. The learned counsel for the petitioner argued much on a circumstance like not holding Gram Sabha by Sarpanch was also considered in the same matter. Not much can be made from that as it can be said that the disqualification order is not made on the basis of the circumstance like not holding of Gram Sabha.

4. Reliance was placed on the cases reported as **2010 (3) ALL MR 196 [Subhangi Anil Gawande and Anr. Vs. Additional Collector and Ors.], 2014 (1) ALL MR 583**

[Sunil Daulat Patil Vs. The State of Maharashtra and Ors.] and 2013 (1) ALL MR 841 [Sow. Gangabai Vithal Bade Vs. The State of Maharashtra] and the some observations made at Nagpur Bench of this Court in Writ Petition No. 5331 of 2008 dated 16.3.2009 [Jyotitai Vikas Gawande Vs. Additional Commissioner, Amravati and Ors.]. The facts and circumstances of each and every case are always different. The relevant facts are already quoted by this Court.

5. No interference is possible in view of the facts mentioned in the order made by the learned Additional Commissioner.

6. In the result, the petition stands dismissed. Results withheld are to be declared. The learned counsel for petitioner prayed for continuation of interim relief. It is refused. Civil application, if any, is disposed of.

[T.V. NALAWADE, J.]

SSC/