

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

906 WRIT PETITION NO. 11788 OF 2016

LALITA TRIMBAK BANSODE
VERSUS
SHIVAJI RAMA CHINDRE AND OTHERS

...
Advocate for Petitioner : Kedar Balbhim R.
AGP for Respondent/State : S.K. Tambe
Advocate for Respondent 1 : R.K. Ashtekar
...

CORAM : T.V. NALAWADE, J.
DATED : 2nd December, 2016.

ORDER :

1. The petition is filed to challenge the decision given by the learned Additional Commissioner, Aurangabad in a proceeding bearing No. DB/Desk-2/ZPVP/Appeal/CR-21/2016. The appeal was filed by present respondents, who had filed complaint before the Collector under the provisions of section 14 (1)(g) of the Village Panchayats Act, 1958. There is allegation against the petitioner that husband of petitioner has interest in the works of Village Panchayat and as many as six cheques were issued in his favour and he withdrew that amount in respect of the work of Village Panchayat. The Collector had dismissed the complaint. The learned Additional Commissioner has held that the fact that the cheques were issued in favour of husband of Sarpanch, present petitioner is itself sufficient to infer that he

had interest in the work and inference of that kind can be drawn against the Sarpanch and so, the appeal is allowed.

2. The learned counsel for petitioner submitted that when there is record showing that the amount was utilized for the purpose for which the cheques were issued, it was not proper on the part of the learned Additional Commissioner to hold the petitioner guilty under the aforesaid ground. This submission is not at all acceptable. The amounts were to be paid to the companies and concerns like M.M. Distributors, Jain Pipe Distributor and Vyankatesh Agency. It cannot be believed that they would not have accepted the cheques if they were issued in respect of amounts due to them. The circumstance of issuing the cheques in favour of husband of petitioner creates a probability that he had interest in the work and he got benefited as he encashed cheques for making payments to aforesaid concerns. Such occasions give opportunity to the middleman like the husband of the Sarpanch to collect commission. If the husband of Sarpanch had no concern with the work, it was not necessary to issue cheques in his favour. The circumstance that the Village Panchayat had passed resolution in that regard also cannot help Sarpanch as Sarpanch comes to power only when she/he wants to become Sarpanch as she/he has majority. Majority cannot be

used for such purpose. If the submission made of aforesaid nature is accepted then in each and every case, the Sarpanch will escape from the liability and the purpose behind the aforesaid ground will be defeated.

3. The learned counsel for petitioner placed reliance on two cases reported as **2009 (4) ALL MR 851 Nagpur Bench of this Court [Sou. Jyotitai Vikas Gawande Vs. Additional Commissioner, Amravati Division and Ors.]** and **2015 (5) Bom.C.R. 308 Nagpur Bench of this Court [Dhrupadabai Laxmanrao Mhaske Vs. Additional Commissioner and Ors.]**. In the first case of **Sou. Jyotitai** cited supra, the amount was withdrawn by the husband of the petitioner and in that case, it was held that the amount was actually spent for that purpose. Facts and circumstances of each and every case are always different. In the present case, as many as six cheques were issued and the amounts were due to some concerns or companies, who would not have refused to accept the amount by cheques. The Local Bodies are expected to transact the business by using cheques and cash payments are not expected to be made by the Local Bodies. In the second matter of **Drupadabai** cited supra, son of Sarpanch was appointed on some post and in view of the facts of that case, it was held that

this circumstance cannot fall under section 14 (1) (g) of the Act. Thus, the facts were different. This Court holds that the learned Additional Commissioner has not committed any error in allowing the appeal and holding that the Sarpanch has incurred disqualification. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/