

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

2 WRIT PETITION NO. 11754 OF 2016

ANURADHA SANTOSH GARAD
VERSUS
THE DIVISIONAL COMMISSIONER AURANGABAD AND
OTHERS

Smt. P.G. Sontakke, Advocate, for petitioner.

Shri. S.K. Tambe, Assistant Government Pleader, for
respondent Nos.1 and 2.

CORAM: T.V. NALAWADE, J.

DATE : 19 DECEMBER 2016

ORDER:

1) The petition is filed to challenge the decisions given by the learned Collector and the learned Additional Commissioner in a proceeding started under section 14(1) (g) of the Maharashtra Village Panchayats Act, 1958. Both sides are heard.

2) The proceeding was started against the present petitioner, Sarpanch, as there was allegation against her that she had issued cheques in the names of her husband and close relatives in respect of various works done and huge amounts were shown to be paid in cash by the

Village Panchayat to various shops. In the months of January February, March 2013 at least five cheques were issued in the name of husband, Santosh Garad of the amount of more than Rs.45,000/-. He encashed the cheques and he collected receipts from the concerns. Each amount was of more than Rs.5,000/- and it can be said that the amount could have been paid by the Village Panchayat to the concerns by cheque. In June, 2013 one more cheque was collected by the husband. Similarly, in the months of April, 2013, May 2014, three cheques were collected by the husband and in the months of April, 2013 and July 2013 under water supply scheme also two cheques were collected. Thus the amount of more than Rs. 2,00,000/- was given in the hands of the husband of the Sarpanch. Similarly, three cheques were issued in favour of Limbraj Garad, other relative of the Sarpanch. In the month of July 2013 four cheques were issued in the name of Manchak Garad, one more relative of the Sarpanch. In the months of April 2013, October 2013 and June 2015 three cheques of more than Rs. One Lakh were issued in the name of Suryakant Garad, a staff of the village panchayat.

3) Learned counsel for the petitioner submitted that when there are receipts and vouchers issued by the concerned like Dnyaneshwar Electrical & Engineering Works of those amounts, it cannot be said that the amount is misappropriated. It needs to be kept in mind that under the aforesaid provision actual misappropriation is not required to be proved but only interest of the Sarpanch is required to be shown in transaction. When the amount could have been given directly to the concern which was of more than Rs.5,000/- by cheque, the cheque was collected by husband issued in his favour and then vouchers were collected. This single instance is sufficient to infer that there was *modus operandi* to take commission before making actual payment to the said concerns. These circumstances are considered by the Collector and the Additional Commissioner.

4) Learned counsel for the petitioner placed reliance on some observations made by this Court in the case reported as **2009 (4) ALL MR 851 (Jyotibai Vikas Gawande v. Additional Commissioner)**. She submitted that if there is no specific allegation that the Sarpanch

had any interest or share in the work the circumstance of only issuance of cheque cannot incur disqualification. Facts and circumstances of each and every case are always different. In the present matter huge amounts were withdrawn by the husband when they could have been directly paid by cheque to the aforesaid concerns and shops. So, no other inference is possible in the matter like the present one. It can be said that it is the husband who was controlling the functioning of the village Panchayat and it cannot be said that, the family of Sarpanch is not benefited due to the aforesaid transactions. There are concurrent findings. This Court sees no reason to interfere in the decision of the Collector. In the result, the petition is dismissed.

Sd/-
(T.V. NALAWADE, J.)

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