

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

WRIT PETITION NO. 12140 OF 2015

Mankarna Yamaji Tarvate

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

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Mr. S.A. Wakure, Advocate for petitioner.

Mr. S.K. Tambe, A.G.P. for Respondent Nos. 1 and 2.

Mr. S.G. Kawade, Advocate for Respondent Nos. 4 to 8.

Mr. P.B. Kadam, Advocate for Respondent No. 9.

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CORAM : T.V. NALAWADE, J.

DATED : 01st DECEMBER, 2016

ORDER :

1. The petition is filed to challenge the order made by Additional Collector, Jalna in Dispute Proceeding No. 26 of 2015. Both sides are heard.

2. The proceeding was filed for taking action against the petitioner – Sarpanch of village Mapegaon (Kh.), Tahsil Partur, District Jalna under provision of Sections 7 and 36 of the Maharashtra Village Pancayats Act, 1959. The allegations were made that he was not holding monthly meetings and Gram Sabhas and so he had incurred

disqualification to remain as Sarpanch. Notice was given to Sarpanch. As there were no specific allegations with regard to period or month made by the complainants, the Additional Collector, Jalna directed the Block Development Officer to make enquiry and submit the report. The Block Development Officer made enquiry and submitted the report to following effect:-

- (i) There was no complete record of monthly meetings.
- (ii) One or two members of the Village Panchayat were regularly absent in the monthly meetings and no steps were taken in that regard. There was no record of giving notices to those members who were continuously absent in the monthly meetings.
- (iii) There was no record made available by Gram Sevak in respect of monthly meetings for the period May 2014 to February, 2015.
- (iv) The resolutions mentioned in the minutes of monthly meetings were very vague and approval of Village Panchayat was not taken for expenditure in the monthly meeting.
- (v) The record like attendance register of members

of Gram Sabha of 26th January, 2013 and 01st May, 2013 was not made available and the record in respect of issuing notices of Gram Sabha was not made available.

(vi) Three Gram Sabhas dated 29th January, 2014, 03rd May, 2014 and 02nd October, 2015 were adjourned due to want of coram and they were not held again as per the procedure. In respect of remaining Gram Sabhas, there was no record of attendance of members of Gram Sabhas and the Gram Sabhas were not held as per the procedure.

3. The Additional Collector considered the record and held that the monthly meeting as required by provision of Section 36 and Gram Sabhas which were required under Section 7 of the aforesaid Act were not held and so the Sarpanch had incurred disqualification.

4. Learned Counsel for petitioner – Sarpanch submitted that when Gram Sevak was called by the Block Development Officer to produce the record, he had submitted leave application and the leave was granted and so it cannot be said that Gram Sevak had not supplied the record. In view of submissions which were made yesterday, opportunity was given to learned Counsel for petitioner to show this Court the record

if any available in respect of monthly meetings for the period May, 2014 to February, 2015. Today one register came to be shown to this Court which is in respect of minutes of monthly meetings held for the period October, 2014 to January, 2015. Even after giving opportunity to Sarpnch to produce the record in respect of remaining four monthly meetings no such record is produced. Same is the case in respect of the allegations made in respect of not holding of Gram Sabhas. As per the rules, signatures of the members of Gram Sabha need to be obtained in the register of Gram Sabha itself and separate list cannot be prepared of the attendance. It is noticed that such separate lists are prepared subsequently and such separate lists cannot be considered. Holding of at least four Gram Sabhas in a financial year is mandatory in nature and similarly holding of monthly meetings is also mandatory. Only escape available to Sarpanch is to show sufficient cause for not holding Gram Sabhas and monthly meetings. This Court has also given opportunity to the Sarpanch to show sufficient cause but Sarpanch only tried to produce some record but no sufficient cause was shown. The matter is required to be decided on the basis of subjective satisfaction of the Collector. When subjective satisfaction of the Collector is involved, this Court is not expected to interfere in the matter lightly.

5. The learned Counsel for petitioner submits that report of Block Development Officer was not supplied to him and so the Sarpanch did not get opportunity to show sufficient cause. This contention of the Sarpanch is not at all acceptable. There is copy of rojnama of proceeding conducted before the Collector and it shows that matter was adjourned many times and there is no record to show that any application was made by the Sarpanch for supplying any document. It is the responsibility of the Sarpanch to show sufficient cause. Section 7(11) of the aforesaid Act shows that it is the joint responsibility of the Sarpanch and Gram Sevak to maintain record of such meetings. In view of this circumstance, it cannot be said that Sarpanch was not able to show the record. Further, in absence of Gram Sevak there is other staff available who can be used by Sarpanch for maintenance and production of documents before the authority. Such staff was not used by Sarpanch and so on that point also there is no case to Sarpanch. This Court holds that there is no possibility of interference in the order made by the Collector.

6. Learned Counsel for petitioner placed reliance on some decisions given by this Court in the cases reported as **2010(4) Bom.C.R. 700 (Pratibha Sanjay Hulle Vs. Additional Collector and Others)** and **2010(6) Bom.C.R. 343 (Shubhangi Anil Gawande and Another Vs.**

Additional Collector and Others) and some unreported orders as Writ Petition No. 3419 of 2013 (Sunl Daulat Patil Vs. State of Maharashtra and Others) and Writ Petition No. 8668 of 2015 (Laxmibai Yadavrao Panchal Vs. Additional Collector, Nanded and Others). The facts and circumstance of each and every case are always different. Learned Counsel submitted that as report of the Block Development Officer was not supplied to the Sarpanch, relief needs to be given to him. It is already observed by this Court that report is only for the purpose to enable the Sarpanch to give sufficient cause. This Court also gave opportunity to Sarpanch to show the record but Sarpanch could not show the record. Thus nothing can be done for Sarpanch.

7. In view of above circumstances, petition stands dismissed. Interim relief granted is vacated.

(T.V. NALAWADE, J.)

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