

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9575 OF 2016
ALONG WITH
CIVIL APPLICATION NO.2489 OF 2016**

Smt.Mandabai Bhanudas Ghadge : Petitioner.
Versus
Divisional Commissioner
Nashik Division, Nashik and ors. : Respondents.

Mr. D S Pagare for the Petitioner.
Mrs. Kirti Kulkarni, AGP, for the Respondent Nos.1 to 3 and 15.
Mr. V V Pai for the Respondent No.6

CORAM : R. M. SAVANT, J.
DATE : 22nd November 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 01/08/2016 passed by the Divisional Commissioner, Nashik Division, Nashik, by which order the Appeal filed by the Petitioner came to be dismissed and resultantly the order dated 28/06/2016 passed by the Additional Collector, Nashik came to be confirmed.

2 The Petitioner was the Sarpanch of Grampanchayat Pimpalgaon-Ghadga, Tal. Igatpuri, Dist. Nashik. The controversy is as regards the Petitioner's resignation from the said post of Sarpanch. In respect of the Petitioner's resignation a meeting of the Grampanchayat was held on 03/05/2016 and the resignation of the Petitioner was accepted. It seems that prior thereto i.e. on 26/04/2016 the Petitioner had addressed a letter to the

Chairman of the Panchayat Samiti, Igatpuri as regards the manner in which the resignation was obtained from the Petitioner. It seems that to the said letter dated 26/04/2016 the Petitioner has received a reply dated 06/06/2016 from the Chairman of the Panchayat Samiti. However, as indicated above a resolution came to be passed in the meeting held for the said purpose on 03/05/2016 and the Petitioner's resignation as a Sarpanch of the said Grampanchayat came to be accepted. In terms of Section 29 of the Bombay Village Panchayats Act a dispute as regards acceptance of the resignation has to be raised within 7 days of the resolution being passed in the meeting of the Grampanchayat. However, in the instant case, the Petitioner filed her objection after about a period of 35 days, and therefore, the said objection was not entertained and the Additional Collector, Nashik by his order dated 28/06/2016 has rejected the application filed by the Petitioner. The said order thereafter has been confirmed by the impugned order dated 01/08/2016 passed by the Additional Commissioner, Nashik Division, Nashik. Hence in the instant case, admittedly the Petitioner has not filed the Dispute Application within the time stipulated by Section 29 of the said Act and therefore both the authorities below have held against the Petitioner.

3 The learned counsel for the Petitioner sought to contend that the Petitioner has withdrawn her resignation and therefore, the resignation could not have been taken up for discussion in the meeting dated 03/05/2016.

However the record discloses that this is not a case of withdrawal of resignation but is a case where the Petitioner has alleged fraud in respect of the said resignation. Hence it was incumbent on the Petitioner to file the Dispute Application within 7 days of the said resolution being passed by the Grampanchayat i.e. 7 days of 03/05/2016, admittedly that has not been done in the present case.

4 The learned counsel for the Petitioner sought to rely upon the judgments which involve the cases of withdrawal of resignation, but not alleging fraud in respect of the resignation. In my view, the said judgments would therefore not further the case of the Petitioner.

5 It appears that after the resignation of the Petitioner was accepted, the election to the post of Sarpanch has been held and a new Sarpanch has already been elected and according to the learned counsel for the Petitioner has been disqualified. However, the same would not further the case of the Petitioner. In that view of the matter, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed. In view of the dismissal of the above Writ Petition, Civil Application No.2489 of 2016 does not survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]