

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.524 OF 2016

Mrs. Salubai Jagannath Narke]
Age: Adult, Occ: Agriculture,]
Residing at : Village Kasari,]
Taluka: Shirur, Dist: Pune].. Petitioner

Versus

1. Shri. Gulab Babanrao Satpute,]
Age: Adult, Occ: Agriculture,]

2. Sau. Rajashri Ashok Phulaware,]
Age: Adult, Occ: Housewife,]
Both residing at Kasari, Taluka Shirur,]
District Pune.]

3. Additional Commissioner, Pune.]

4. State of Maharashtra].. Respondents

Mr. S. S. Kulkarni i/by Mr. Chaitanya Nikte, for the Petitioner.

Mr. V. B. Tapkir, for the Respondent Nos.1 & 2.

Mrs. S. S. Bhende, AGP for the Respondent Nos.3 & 4.

CORAM : R.M. SAVANT, J.

DATE : 21st APRIL 2016

ORAL JUDGMENT

1. Rule, with the consent of the Learned Counsel for the parties
made returnable forthwith and heard.

2. The writ jurisdiction of this Court is invoked against the order dated 30.11.2015 passed by the Additional Commissioner, Pune Division, Pune, by which order, the Appeal filed by the Petitioner came to be dismissed and resultantly, the order dated 27.08.2015 passed by the Additional Collector, Pune came to be confirmed.

3. It is not necessary to burden this order with unnecessary details having regard to the nature of the directions to be issued. Suffice it would be to state that the Respondent Nos.1 and 2 initiated proceedings for disqualification of the Petitioner under Section 14(1)(h) of the Maharashtra Village Panchayats Act. The said provision reads thus :-

“14. Disqualifications.- [(1) No person shall be a member of a *Panchayat* continue as such, who -

(a).....

(b).....

(c).....

(d).....

(e).....

(f).....

(g).....

(h) fails to pay any tax or fee due to the *Panchayat* [or the Zilla Parishad within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him; or]”

Hence, the said provision postulates the disqualification of a member of a

Panchayat and continue as such if fails to pay any tax or fee due to the Panchayat within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served upon him. In the instant case, it is required to be noted that the notice of demand is dated 01.11.2014. However, it is the case of the Petitioner that the said notice of demand was not served upon the husband of the Petitioner and that in the bill register interpolation has been made between numbers 1 and 3 and the name of the husband of the Petitioner has been included and his signature is shown against his name as having received the said notice of demand dated 01.11.2014. It is also the case of the Petitioner that the original No.2 in the bill register has been changed to 3 and original No.3 has been changed to 4 in the said bill register. It is required to be noted that the husband of the Petitioner owns the Gram Panchayat property bearing Nos.197, 775 and 776, in respect of which he has to pay taxes to the Gram Panchayat. It seems that the Petitioner's husband on acquiring knowledge that the amount was required to be paid by him in respect of the said properties, paid the amount of the property tax on 26.03.2015.

4. It is required to be noted that in the proceedings filed by the Respondent Nos.1 and 2 herein the Petitioner has specifically taken a stand that the signature appearing against the name of her husband in the

bill register is not that of her husband, but his signature has been forged by somebody by signing like him. The proceedings commenced before the Additional Collector, Pune. The Additional Collector, Pune has considered the report submitted by the Chief Executive Officer, Zilla Parishad, Pune, who in turn has based his report, on the report of the Block Development Officer, Shirur. The Additional Collector, Pune on the basis of the notice of demand dated 01.11.2014 having been received by the husband of the Petitioner on 03.11.2014 and the payment being made on 26.03.2015, held that the Petitioner has fallen foul of the said Section 14(1)(h) of the Maharashtra Village Panchayats Act and therefore was required to be disqualified under the said provision. Pertinently, the Additional Collector, Pune has not considered the case of the Petitioner of interpolation of the name of the husband of the Petitioner and signature of the husband of the Petitioner being forged in the said bill register.

5. Being aggrieved by the order passed by the Additional Collector, Pune dated 27.08.2015, the Petitioner filed an Appeal before the Additional Commissioner, Pune Division, Pune. The Additional Commissioner, Pune Division, Pune for the self same reason namely that the notice is dated 01.11.2014 served on the husband of the Petitioner on 03.11.2014 and the payment being made on 26.03.2015 observed that the said payment was made after about 51 days of the period of three months

getting over and therefore there is non-compliance of Section 14(1)(h) of the Maharashtra Village Panchayats Act and therefore Petitioner is required to be disqualified under the said provision. The Additional Commissioner has also not considered the case of the Petitioner that the name of the husband of the Petitioner has been interpolated and the signature of the husband of the Petitioner is forged. The said fact assumes significance in the light of the wording of the Section 14(1)(h) of the Maharashtra Village Panchayats Act having regard to the fact that the demand is required to be made and duly served upon the person.

6. Both the Authorities below therefore have not gone into the said aspect as to whether the signature appearing on the bill register genuinely is that of the husband of the Petitioner or whether the name of the husband of the Petitioner against his signature has been forged in the background circumstance of the fact that it is the Petitioner who was in the forefront in moving no confidence motion against the Respondent Nos.1 and 2. Since the said issue of whether the notice of demand has been served upon the husband of the Petitioner is the defining aspect in the instant case and since the said aspect has not been dealt with by the Authorities below, the orders passed by the Additional Collector as well as the Additional Commissioner would have to be quashed and set aside and the matter would have to be remanded back to the Additional Collector,

Pune for a de-novo consideration of the said proceedings. The Additional Collector, Pune would consider the proceedings for disqualification of the Petitioner in terms of the observations made hereinabove. The parties to appear before the Additional Collector, Pune on 04.05.2016. The Additional Collector, Pune to thereafter decide the proceedings expeditiously and latest by 30.06.2016. Needless to state that contentions of the parties on all points are kept open for being urged before the Additional Collector, Pune. The Additional Collector, Pune to decide the proceedings on their own merits and in accordance with law. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs of the Petition.

[R.M. SAVANT, J]