

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.999 OF 2016

Shri Natthu Zibal Gharde and ors

-vs-

State of Mah., thr its Secretary, Ministry of Rural Development and Water Conservation
Department, Mantralaya, Mumbai and ors

WITH

WRIT PETITION NO.1000 OF 2016

Sau. Vaishali Raju Bhure and ors

-vs-

State of Mah., thr its Secretary, Ministry of Rural Development and Water Conservation
Department, Mantralaya, Mumbai and ors

WITH

WRIT PETITION NO.1001 OF 2016

Sau. Vandana Hatwar and ors

-vs-

State of Mah., thr its Secretary, Ministry of Rural Development and Water Conservation
Department, Mantralaya, Mumbai and ors

WITH

WRIT PETITION NO.1002 OF 2016

Smt Nisha Sukhdeve and ors

-vs-

State of Mah., thr its Secretary, Ministry of Rural Development and Water Conservation
Department, Mantralaya, Mumbai and ors

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.A.M. Ghare, counsel for the petitioners.
Mrs.K.H. Deshpande, AGP for the R-1 to 3.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : MARCH 31, 2016.

Since the issue involved in these writ petitions is
identical, they are heard together and are decided by this
common order.

By these writ petitions, the petitioners, who are

the elected members of the respective Gram Panchayats, seek a direction to the Collector of district Bhandara not to conduct the election for electing the members of the newly constituted Gram Panchayats. A direction is sought against the respondents to declare that the petitioners to continue as the members of the respective Gram Panchayats, till expiry of the term on 11.11.2017.

Mrs.Deshpande, the learned Assistant Government Pleader appearing on behalf of the respondents submits that the issue involved in these writ petitions is also involved in Writ Petition No.928 of 2016 and this Court has by an order dated 31.3.2016 dismissed the writ petition. It is stated that the facts and the issue involved in these cases and the decided case are identical. The learned Assistant Government Pleader seeks the dismissal of these writ petitions for the reasons recorded in the order dated 31.3.2016 in Writ Petition No.928 of 2016.

On hearing the learned counsel for the parties and on a perusal of Writ Petition No.928 of 2016 and the order passed therein, we find that the issue involved in these cases and the said case is identical. The respective Gram Panchayats to which the petitioners were elected is divided into two Gram Panchayats by the notification issued by the State Government under Section 4 of the Bombay Village Panchayats Act. In the decided case as well as these writ petitions, the respective Gram Panchayats to which the petitioners were elected as members have been divided into two Gram Panchayats. If that is so, the State Government was entitled to pass the impugned order under the provisions of Section 160(1)(b) of the Act. Merely because the

Commissioner has wrongfully mentioned in the impugned order that the provisions of Section 146 have been invoked while passing the orders, the orders cannot be said to be bad in law, as the respondents have the authority to appoint the administrator in terms of the provisions of Section 160(1)(b) of the Act. It is well settled that an order cannot be said to be vulnerable only because a wrongful provision is mentioned in the order, when the order could be supported on some other provision of the enactment. In these cases, though the order may not have been passed by the respondents under the provisions of Section 146 of the Act, the same could be passed under the provisions of Section 160(1)(b) of the Act.

The the prayer made by the petitioners for their continuation in the Office, till the completion of their term of five years, cannot be granted in view of the provisions of Section 160(1)(a), as the petitioners are deemed to have vacated their Office on the division of one Gram Panchayat into two or more Gram Panchayats.

Hence, for the reasons recorded in the order dated 31.3.2016 in Writ Petition No.928 of 2016 and the reasons recorded herein above, we dismiss these writ petitions with no order as to costs.

JUDGE

JUDGE