

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

WRIT PETITION NO.4221 OF 2015

Indiratai Jaipal Nikose

-vs-

Wasudev R. Wankhede and ors.

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

Court's or Judge's Orders.

Shri S. R. Bhongade, Advocate for petitioner.

Shri P. M. Sinha, Advocate h/f Shri G. M. Shitut, Advocate for
respondent Nos.1 to 4.

Shri N. B. Jawade, AGP for respondent Nos.5 & 6.

CORAM : A. S. CHANDURKAR J.

DATE : October 18, 2016

Heard.

The challenge in the present writ petition is to the order passed by the Authorities under provisions of Section 39(3) of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as the said Act) thereby removing the petitioner from the post of Sarpanch.

Pursuant to the complaint dated 26/08/2013 the Chief Executive Officer held an enquiry and submitted report dated 19/05/2014. The enquiry was held on four counts out of which the petitioner was found prima facie

guilty on two counts namely of not taking appropriate steps to recover dues on behalf of the Grampanchayat and secondly of issuing Domicile Certificate in an improper manner without having proper authority in that regard. Thereafter the Addl. Commissioner by order dated 08/12/2014 accepted the findings of the Inquiry Officer and after giving opportunity to the petitioner removed her from the post of Sarpanch. This order was confirmed by the respondent No.6 in proceedings under Section 39(3) of the said Act.

Shri S. R. Bhongade, the learned counsel for the petitioner submitted that the petitioner was not liable to be removed from the post of Sarpanch inasmuch as no pecuniary loss was caused to the Grampanchayat pursuant to the resolution dated 28/05/2013. He submitted that though the petitioner had opposed passing of said resolution but it had been resolved that the dues duly collected from the residents of Grampanchayat. He submitted that infact a show cause notice dated 30/10/2013 was issued by the Dy. Chief Executive Officer to the Secretary of the Grampanchayat for inaction to recover the dues. He submitted that

both the Authorities mechanically accepted the findings of the Inquiry Officer and passed the order of disqualification.

Shri P. M. Sinha, the learned counsel holding for Shri G. M. Shitut, the learned counsel for the respondent Nos.1 to 4 as well as Shri N. B. Jawade, the learned Assistant Government Pleader for respondent Nos.5 and 6 supported the impugned order. It was submitted on their behalf that after giving due opportunity to the petitioner, the enquiry was conducted and both the Authorities did not commit any error when they held the petitioner to be disqualified. It was submitted that by virtue of provisions of Section 38(2)(c) of the said Act, it was for the Sarpanch to exercise supervisory control over the acts of the Grampanchayat and that failing to do so, the petitioner was rightly disqualified.

Having heard the respective counsel and after perusing the impugned order, I do not find that any case has been made out warranting exercise of extraordinary jurisdiction. The report of the Inquiry Officer clearly indicates that despite the Grampanchayat passing a resolution for recovery of its dues, no steps were taken

by the petitioner as Sarpanch to recover such dues. The provisions of Section 38(2)(c) of the said Act cast responsibility on the petitioner as Sarpanch to carry out necessary duties and responsibilities as contemplated therein and on that count she was held liable for removal.

The second ground on which the petitioner has been removed indicates inappropriate use of office. Both the conclusions recorded in the enquiry report are based on material available on record.

In view of aforesaid, I do not find any merit in the writ petition so as to exercise extra-ordinary jurisdiction. There is not jurisdictional error committed while passing the impugned orders. Hence, the writ petition is dismissed with no order as to costs.

JUDGE