

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6549 OF 2017

SIMA BHUJANGRAO DEVASARKAR
VERSUS
THE ADDITIONAL COLLECTOR NANDED AND OTHERS

...
Advocate for Petitioner : Mr. Deshmukh Umakant B
AGP for Respondent No. 1 : Mr. S.N. Kendre
Advocate for Respondent No.3 : Mr. P.B., Rakhunde
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CORAM : V. K. JADHAV, J.
DATED : 14th DECEMBER, 2017

PER COURT:-

1. The learned counsel for Petitioner by relying upon the ratio laid down by this Court in the cases of **Laxmibai Yadavrao Panchal Vs. The Additional Collector, Nanded and others**, decided in Writ Petition No.8668 of 2015 on 5th May, 2016 (Coram: Sunil P. Deshmukh, J.) and **Sunil Daulat Patil Vs. The State of Maharashtra and others**, decided in Writ Petition No.3419 of 2013 on 4th December, 2013 (Coram: S. S. Shinde, J.), submits that from the contents of notice, which has been issued to the Petitioner under Sections 7 and 36 of the Maharashtra Village Panchayat Act, 1958 (hereinafter for short, referred to as "the said Act") it is manifest that there is no mention of any specific charges / points, which are required to be answered by the Petitioner. The learned counsel submits that in the aforesaid cases, this Court by referring the ratio laid down in the case of **Pratibha Sanjay Hulle Vs. Additional Collector and others**, reported in, **2010 (4) Bom.C.R. 700**,

observed that to enable the Sarpanch to raise proper defence and explain sufficient cause for his failure to perform any statutory function, he must be informed essentially as regards his failure meaning thereby he must be communicated the specific charges. The learned counsel submits that in view of the facts of the present case also, the inquiry and order passed by the Additional Collector stand vitiated for non-compliance of basic principles of natural justice.

2 The learned counsel for Respondent No.3 / original complainant submits that the impugned order passed by the learned Additional Collector is proper, correct and legal. Learned counsel placed reliance on the judgment of this court in the case of **Suvarna Prakash Patil vs. Anil Hindurao Powar and others, reported in 2004 (1) Mh.L.J. 1062.**

3. The case cited by learned counsel for respondent No.3 deals with the disqualification of member of Gram Panchayat in the proceeding of Sections 14(h) r.w. 16 of the said Act. Even in case of disqualification under Section 14(h) r.w. 16 of the said Act, in the cited case, this Court in para 12 of the judgment observed that the Collector while adjudicating the issue of disqualification is required only to observe the principles of natural justice and fair play. In the instant case, disqualification is claimed under the provision of Sections 7 and 36 of the said Act. As referred above, this court has already expressed that in such case of disqualification claimed under the provisions of Sections 7 and 36 of the

said Act, it is manifest to enable the Sarpanch to raise proper defence and explain sufficient cause for his failure to perform any statutory function, he must be informed essentially as regards his failure meaning thereby he must be communicated the specific charges. In the instant case, the notice is vague and without giving details of the meeting.

4. In view of the above and in the light of the identical facts of the case, the writ petition is allowed in terms of prayer clause (B) and the proceedings are sent back for re-consideration to the Collector, Nanded / Additional Collector, Nanded with directions that the Collector, Nanded / Additional Collector, Nanded shall dispose of the aforesaid dispute in terms of the observations made as above afresh. Having regard to aforesaid, it is also directed that after the remand, the proceedings should be decided as expeditiously as possible preferably within a period of six months from today.

5 Writ petition is accordingly, disposed of.

(V. K. JADHAV, J.)

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