

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.134 OF 2016

Baburao s/o Namdeorao Gabale,
Age: 68 years, Occu: Retired,
R/o Kekat Sindagi, Tq. Jalkot,
presently residing at Bhawani Nagar,
Tq. Kandhar, Dist. Latur

..PETITIONER

VERSUS

1. Suryakant s/o Venkati Dalve,
Age: 40 years, Occu: Sarpanch,
R/o. Grampanchayat Kekat,
Tq. Jalkot, Dist. Latur
2. Sanjay s/o Gopinath Kendre,
Age: 40 years, Occu: Upsarpanch,
R/o. Grampanchayat Kekat,
Tq. Jalkot, Dist. Latur
3. Shivaji s/o Rajaram Kamble,
Age: 45 years, Occu: Service
with Grampanchayat Kekat Shindagi,
Tq. Jalkot, Dist. Latur
4. The Addl. Collector-District Latur,
Latur
5. Village Panchayat,
Kekat Shindagi,
Tq. Jalkot, Dist. Latur,
Through its Gramsevak

..RESPONDENTS

Mr S. V. Kurundkar, Advocate for petitioner;
Mr N. S. Kendre, Advocate for respondent Nos. 1 to 3 & 5;
Mr A. P. Basarkar, A.G.P. for respondent No.4

CORAM : N.W. SAMBRE, J.

DATE : 28th September, 2017

ORAL ORDER

(2)

It is the case of the petitioner that for financial year 2012-13 and 2013-14 respondents no.1 and 2 Sarpanch and Upa-Sarpanch have failed to hold minimum four Gramsabha meetings as prescribed under Section 7 of the Bombay Village Panchayats Act (for short "Act"). An application for disqualification of respondents no.1 and 2 under the said provisions suffered dismissal pursuant to the impugned order dated 7th November, 2015, passed by Additional Collector, Latur, which *qua* the statute has attained finality. Thus, the present petition.

2. Mr Kurundkar, learned Counsel appearing on behalf of the petitioner would urge that although in a tabular form the impugned order reflects the dates of issuance of public notice of Gramsabhas, dates of notice by beat of drums and the dates on which Gramsabhas were alleged to have been held, yet the record to that effect is forged. In order to substantiate his contentions, Mr Kurundkar would invite attention of this Court to the application moved by the petitioner under Right to Information Act before respondent no.5 Village Panchayat, as is reflected from record pages 28 and 32. According to him, such information was sought on 19th September, 2014 and the communication by the Gramsevak, dated 14th November, 2014 speaks of providing only part information. He submits that the order impugned is passed without supplying the information sought for by the petitioner and as such there is denial of hearing.

3. Per contra, learned Counsel appearing on behalf of the respondents no.1 to 3 and 5 submits that no specific objection about non supply of the

(3)

documents was raised by the petitioner – complainant during the course of hearing of the matter before the Additional Collector. According to him, the material that was available was rightly appreciated by the Additional Collector and as such no fault could be found on the part of respondents no.1 and 2 i.e. Sarpanch and Upa-Sarpanch. He submits that the petition being devoid of merit deserves to be rejected.

4. It is not in dispute that the information that is referred in the impugned order by the Additional Collector rejecting the application of the petitioner-complainant, for determining the issue of disqualification for not holding four Gramsabhas in a financial year, as prescribed under Section 7 of the Act, was appreciated in tabular form.

5. Before passing of the impugned order, the prayer of the petitioner for supply of information was very much moved with respondent no.5. The communication by respondent no.5, as reflected at page 32, dated 14th November, 2014, speaks of non supply of entire information.

6. When confronted, the respondents though raise a plea of supply of entire information, still no acknowledgment to that effect has been produced.

7. Apart from above, it is required to be noted that the Additional Collector has considered the dates of issuance of public notices and holding of Gramsabhas in tabular form, however without referring to the

(4)

specific documents, by making general observations that there is requisite compliance, the application made by the petitioner came to be rejected.

8. What was expected of the learned Additional Collector was to scrutinize the documents pertaining to four Gramsabhas in each financial year viz. issuance of public notice, notice by beat of drums and holding of such Gramsabhas.

9. Non furnishing of information by respondent no.5 to the petitioner is required to be viewed seriously, particularly when the claim of the petitioner is based on the fact that the requisite Gramsabhas were not held.

10. In the aforesaid background, in my opinion, non supply of information to the petitioner as sought by him under the Right to Information Act, during pendency of the disqualification proceedings before the Additional Collector, would amount to denying an opportunity of hearing.

11. In the wake of above, the order impugned, in my opinion, is not sustainable. I, therefore, pass following order :-

The impugned order dated 7th November, 2015 is quashed and set aside.

(5)

The matter stands restored to the file of Additional Collector, Latur, before whom the parties agree to appear on 19th November, 2017.

The petitioner to furnish list of documents, which he desires to have before the Additional Collector.

Respondent – Additional Collector to ensure supply of all such documents to the petitioner upon payment of appropriate costs by 30th November, 2017. Additional Collector shall hear and decide the matter finally, in accordance with law, within a period of two weeks thereafter, having regard to the fact that the term of office of respondents no.1 and 2 is coming to an end.

With above observations, petition stands partly allowed.

(N.W. SAMBRE, J.)

amj