

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 5446 OF 2017

Smt. Alka Maruti Awate

...Petitioner

Versus

Shri. Yogesh Dattatrey Rane

And Ors.

...Respondents

....

Mr.Rahul M. More a/w. Dhananjay Ranaware, Advocate for the
Petitioner.

Mr.S.D. Rayrikar, AGP for the State.

....

CORAM : R. G. KETKAR, J.

DATE : 4th MAY, 2017

P.C.

1. Not on board. At the request of Mr.More taken up in the
production board.

2. Heard M.Rahul More, learned counsel for the petitioner
and Mr.S.D. Rayrikar, learned A.G.P. for the State, at length.

3. By this Petition under Article 227 of the Constitution of
India, the petitioner has challenged the judgment and order
dated 31.3.2017 passed by the Additional Collector, Raigad,
Alibag in Grampanchayat Dispute No.35/2016. By that order, the
Additional Collector allowed the dispute application filed by
respondents No.1 and 2 and declared that the petitioner has

incurred disqualification for continuing as Sarpanch of Grampanchayat Poshir, Taluka-Karjat, District-Raigad for the remainder tenure.

4. In support of this Petition, Mr. More strenuously contended that the Additional Collector observed that the petitioner did not conduct the monthly meetings of July and August, 2016. The petitioner also did not dispute the fact that she did not hold the monthly meetings of July and August, 2016. He submitted that the Additional Collector, however, failed to consider the provisions of Section 36 of the Maharashtra Village Panchayats Act (For short, 'Act'). He submitted that the Additional Collector did not consider whether the petitioner has made out sufficient cause for not convening the monthly meetings of July and August, 2016. He has taken me through the minutes of the meeting dated 27.9.2016. The minutes recorded that the month of July, 2016, the meeting was convened on 30.7.2016. Because of illness of her daughter, the petitioner could not remain present. For the month of August, 2016 the meeting was convened on 26.8.2016. Even on that date she was not well and therefore could not hold the meeting. That apart, bye-election for filling-up vacancy caused because of death of one

of the members of Grampanchayat and because of imposition of Code of Conduct, she could not hold the meeting. He submitted that as the Additional Collector failed to consider the sufficient cause made out by the petitioner, the impugned order deserves to be set aside.

5. On the other hand, Mr. Rayrikar supported the impugned order.

6. I have considered the rival submissions advanced by learned Counsel appearing for the parties. I have also perused the material on record. A perusal of the impugned order shows that respondents No.1 and 2 made complaint that the petitioner did not hold monthly meetings of July and August, 2016. The petitioner did not dispute the fact that she did not hold monthly meetings of July and August, 2016. A perusal of the minutes of the meeting dated 27.9.2016 also shows that the monthly meetings of July and August, 2016 were not held. Though the reason given by the petitioner for her absence in the meeting of July, 2016 is that her daughter is not well, no material is produced to substantiate said fact. In fact the petitioner could have applied well in advance before the meeting of 30.7.2016. In

any case on the date of the meeting, namely, on 30.7.2016 she could have applied for exemption on the ground of illness of her daughter. Equally for the monthly meeting of August, 2016 she could have applied for exemption on the ground of her ill-health. A perusal of the impugned order shows that the Additional Collector has referred to the decision of this Court in Writ Petition No.39/1981 dated 15.6.1981, wherein this Court observed as under :

“In our view, the plural in the phrase the meeting was intended to include and to mean singular also. In our view, therefore failure to convene even a single meeting in breach of the rules prescribed would attract the penalty as contained in the proviso. The above interpretation is in consonance with the intent and purpose of Rule 3 and also the amended provisions of section 36”

7. In view thereof, the Additional Collector rightly came to the conclusion that in view of Section 36 of the Act, the petitioner has rendered herself ineligible for continuing as Sarpanch. Hence, Petition fails and the same is dismissed. Order accordingly.

(R. G. KETKAR, J.)