

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

WRIT PETITION NO. 1737 OF 2018

SAVITA YUVRAJ SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioner : Shri J.K. Bansod h/f Shri D.S.Manorkar.
AGP for Respondents 1 to 3 : Shri V.S.Badakh.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th February, 2018

Per Court:

1 The Petitioner is aggrieved by the impugned order dated 16.10.2017 by which, her Gram Panchayat Appeal No.552/2017 has been dismissed without issuance of notice on a short issue that the said appeal is beyond the limitation and cannot be entertained under Section 16(2) of the Maharashtra Village Panchayats Act.

2 I have considered the submissions of the learned Advocate for the Petitioner.

3 The learned AGP has taken instructions and has opposed the petition.

4 The Petitioner was aggrieved by the order of the Additional Collector dated 10.04.2017 by which, Gram Panchayat Dispute

Application No.123/2016 filed by Respondent No.6 was allowed and the Petitioner was held disqualified under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act. The Petitioner lodged her appeal before the Additional Commissioner on 25.04.2017. Without issuing notice to any parties, the Additional Commissioner disposed of the appeal by concluding that it was filed on the 16th day and hence, was delayed by one day. The said order was directed to be uploaded on www.edisnic.gov.in, which is the State Government website.

5 This issue is no longer res integra in the light of the judgments delivered by the learned Division Bench of this Court in the matter of Nandkishor Shrimantrao Deshmukh vs. Presiding Officer/ Tahsildar, Jafrabad and others, 2004 (4) Bom. C.R. 592 and the learned Single Judge of this Court in the case of Seema Ashok Kamble vs. Collector, Pune and others, 2008 (3) Bom. C.R. 683. This Court has followed the view taken in the above two judgments while deciding Writ Petition No.9665/2014 (Smt.Antikabai Sahebrao Nikalje, Beed vs. The Additional Collector, Beed and others, 2015 Marathwada Cases Reporter 566).

6 The issue dealt with by the learned Division Bench in Nandkishor Deshmukh case (supra) was as regards the computing of seven days for convening a special meeting for conducting the business on the motion of no confidence which was moved by the members of the Village

Panchayat before the Tahasildar. The language used in Section 35(2) with regard to no-confidence motion is that within seven days from the date of the receipt of the notice issued by the Village Panchayat members, the Tahasildar would convene a special meeting for considering the motion of no-confidence. The language used in Section 16(2) is that any person aggrieved by the decision of the Collector may, within a period of fifteen days from the date of such decision, appeal to the State Government. The language in Section 35(2) and Section 16(2) is almost identical. The learned Division Bench, therefore, held that the day, on which the notice is issued by the members of the Village Panchayat calling for a meeting to table the no-confidence motion, has to be excluded and seven days have to be computed from the day subsequent to the date on which the notice is issued.

7 The same analogy applies in the facts of this case when the first day for computing 15 days would be the day subsequent to the date on which the District Collector has pronounced his judgment. It requires no debate that the date on which such judgment or order is delivered, cannot mean that the first day has already expired on the same day on which the order is pronounced.

8 In the light of the above, it is obvious that the Petitioner herein had preferred her appeal on the 15th day i.e. 25.04.2017 and hence, the appeal was maintainable.

9 Since the impugned order was passed without issuing notice to any parties, I am not issuing notice to Respondent Nos.4, 5 and 6.

10 In the light of the above, this Writ Petition is, therefore, allowed. The impugned order dated 16.10.2017 is quashed and set aside. Gram Panchayat Appeal No.552/2017 is restored to the file of the Divisional Commissioner, Nashik Division, Nashik with the direction that the notices would be issued to all the litigating sides and the appeal would be considered on its merits expeditiously.

kps

(RAVINDRA V. GHUGE, J.)