

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

WRIT PETITION NO. 1587 OF 2018

SAGAR SANJAY GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Bhosle Santosh C.
AGP for Respondents 1 and 2 : Shri S.K.Tambe.
Advocate for Respondent 4 : Shri A.N.Patale.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th February, 2018

Per Court:

1 The Petitioner is aggrieved by the order of the District Collector, Nanded dated 18.01.2018 by which, the Petitioner has been disqualified as Sarpanch of Group Gram Panchayat, Sultanpur-Kondlapur-Nagapur, Taluka Biloli, District Nanded under Sections 7 and 36 of the Maharashtra Village Panchayats Act. The conclusion is that the Petitioner has deliberately not conducted the monthly meeting in December, 2015 as is prescribed under Rule 3 of the Bombay Village Panchayats (Meetings) Rules, 1959.

2 I have considered the submissions of the learned Advocate for the Petitioner, the learned Advocate for Respondent No.4/ original Complainant and the learned AGP on behalf of Respondent Nos.1 and 2.

3 Respondent No.3/ Gramsevak is not necessary party and the Petitioner prays for deletion of Respondent No.3. Deletion is permitted and to be carried out forthwith.

4 After considering the submissions and upon going through the petition paper book and on considering the law laid down by this Court in the matters of Pratibha Sanjay Hulle vs. Additional Collector, 2010 (5) Mh.L.J. 47 and Tukaram Krushnaji Parve vs. State of Maharashtra and others, 2015 (3) Mh.L.J. 652, it is apparent that there are two aspects that the Collector has to consider in such circumstances. Firstly that, whether, the Sarpanch has faltered in conducting any monthly meeting or the meeting of the Gram Sabha. Once it is concluded that there is a default in conducting one or more meetings, the Collector then has to proceed to decide whether, the reasons cited by the Sarpanch or Upa-Sarpanch, as the case may be, for not conducting the meeting, are satisfactory or not.

5 In the instant case, it is established that one monthly meeting in December, 2015 was not convened by the Petitioner and the learned Advocate for the Petitioner submits, on instructions, that he does not dispute the same. He, however, contends that the reasons cited for not convening the monthly meeting in December, 2015 have not been considered by the Collector despite the specific stand having been taken that the Gramsevak was absconding and was not available to convene the meeting. Considering the conduct of the Gramsevak, he has also been

suspended.

6 This Court has concluded in *Tukaram Parve* (supra) that if the Authority concludes that a meeting was not held as is prescribed under Sections 7 and Section 36 of the said Act r/w Rule 3 of the said Rules, it has to assess whether, the reason cited for not conducting the meeting is satisfactory so as to condone the failure on the part of the Sarpanch.

7 I do not find from the impugned order that the Collector has even discussed the reasons cited by the Petitioner, much less, drawn any conclusion as to whether, the said reasons are satisfactory.

8 Considering the above, the Petitioner partly succeeds. The Writ Petition is, therefore, partly allowed and the impugned order dated 18.01.2018 is quashed and set aside. The proceeding No.2017/ GB/ Desk-1/ GRAPNI/ Appeal-61 stands remitted to the office of the District Collector, Nanded to consider whether, the reason canvassed by the Petitioner/ Sarpanch due to which he did not convene the monthly meeting in December, 2015, can be said to be unsatisfactory.

9 The litigating sides agree to appear before the District Collector, Nanded on 23.02.2018 at 03:00 pm. Formal notices need not be issued.

10 The litigating sides are at liberty to enter their written notes of submissions and the District Collector shall then decide the said proceedings by passing a reasoned order as expeditiously as possible and

in any case on or before 15.04.2018.

11 Considering that the Petitioner has already suffered the disqualification as a Sarpanch and the Upa-Sarpanch is the in-charge Sarpanch, the said position shall continue to operate and the Upa-Sarpanch shall continue to officiate as in-charge Sarpanch till the decision of the Collector. The State Authorities shall not proceed to initiate the process of conducting the election to the post of Sarpanch till the decision of the District Collector.

kps

(RAVINDRA V. GHUGE, J.)