

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.125 OF 2017

1. Sau. Pratibha Deepak Patil,
Age : 40 years, Occu. Agri.
2. Jyotibai Pating Patil,
Age : 40 years, Occu. Agri.
3. Sau. Afsana Bandu Tadvil,
Age : 35 years, Occu. Labour
4. Ajay Ramesh Sansare,
Age : 25 years, Occu. Labour

All 1 to 4 are R/o Wanegaon,
Tq. Pachora, Dist. Jalgaon

PETITIONERS

VERSUS

1. The State of Maharashtra,
through its Secretary,
Gram Vikas & Panchayat Raj
Department, Mantralaya,
Mumbai
2. The Commissioner,
Divisional Commissioner Office,
Nashik Division, Nashik
3. The Collector,
Jalgaon
4. The Tahsildar,
Pachora, Tq. Pachora,
District Jalgaon
5. The Gram Sevak,
Gram Panchayat, Wanegaon,
Tq. Pachora, Dist. Jalgaon

6. Smt. Sindhubai Prakash Patil,
Age : 40 years, Occu. Sarpanch
7. Sau. Meerabai Mantul Sonawane,
Age : 38 years, Occu. Deputy
Sarpanch
8. Chandu Krushnarao Patil,
Age : 40 years, Occu. Agri.

Respondent Nos.5 to 8 are
R/o Wanegaon, Tq. Pachora,
District Jalgaon

RESPONDENTS

AND

REVIEW APPLICATION NO.95 OF 2017
IN
WRIT PETITION NO.125 OF 2017

1. Smt. Sindhubai Prakash Patil,
Age : 40 years, Occu. Sarpanch
2. Sau. Meerabai Mantul Sonawane,
Age : 38 years, Occu. Deputy
Sarpanch
3. Chandu Krushnarao Patil,
Age : 40 years, Occu. Agri.

All R/o Wanegaon, Tq. Pachora,
District Jalgaon

APPLICANTS

VERSUS

1. Sau. Pratibha Deepak Patil,
Age : 40 years, Occu. Agri.
2. Jyotibai Pating Patil,
Age : 40 years, Occu. Agri.
3. Sau. Afsana Bandu Tadvi,
Age : 35 years, Occu. Labour
4. Ajay Ramesh Sansare,
Age : 25 years, Occu. Labour

Respondent Nos.1 to 4 are
R/o Wanegaon, Tq. Pachora,
Dist. Jalgaon

5. The State of Maharashtra,
through its Secretary,
Gram Vikas & Panchayat Raj
Department, Mantralaya,
Mumbai
6. The Commissioner,
Divisional Commissioner Office,
Nashik Division, Nashik
7. The Collector,
Jalgaon
8. The Tahsildar,
Pachora, Tq. Pachora,
District Jalgaon
9. The Gram Sevak,
Gram Panchayat, Wanegaon,
Tq. Pachora, Dist. Jalgaon

RESPONDENTS

AND

WRIT PETITION NO.3488 OF 2017

1. Smt. Sindhubai Prakash Patil,
Age : 40 years, Occu. Sarpanch
2. Sau. Meerabai Mantul Sonawane,
Age : 38 years, Occu. Deputy
Sarpanch
3. Chandu Krushnarao Patil,
Age : 46 years, Occu. Agri.

All R/o Wanegaon, Tq. Pachora,
District Jalgaon

PETITIONERS

VERSUS

1. The State of Maharashtra,
through its Secretary,
Gram Vikas & Panchayat Raj
Department, Mantralaya,
Mumbai
2. The Commissioner,
Divisional Commissioner Office,
Nashik Division, Nashik
3. The Collector,
Jalgaon
4. The Tahsildar,
Pachora, Tq. Pachora,
District Jalgaon
5. Village Panchayat, Wanegaon,
Tq. Pachora, Dist. Jalgaon
through Gram Sevak
6. Sau. Pratibha Deepak Patil,
Age : 40 years, Occu. Agri.
7. Jyotibai Pating Patil,
Age : 40 years, Occu. Agri.
8. Sau. Afsana Bandu Tadvi,
Age : 35 years, Occu. Labour
9. Ajay Ramesh Sansare,
Age : 25 years, Occu. Labour

Respondent Nos.4 to 9 are
R/o Wanegaon, Tq. Pachora,
Dist. Jalgaon

RESPONDENTS

AND

CIVIL APPLICATION NO.5105 OF 2018

IN

WRIT PETITION NO.125 OF 2017

Santosh Vishnu Sonawane,
Age : 67 years, Occu. Agri.,
R/o at Wanegaon, Taluka
Pachora, District Jalgaon

APPLICANT

VERSUS

1. The State of Maharashtra,
through its Secretary,
Gram Vikas & Panchayat Raj
Department, Mantralaya,
Mumbai
2. The Commissioner,
Divisional Commissioner Office,
Nashik Division, Nashik
3. The Collector,
Jalgaon
4. The Tahsildar,
Pachora, Tq. Pachora,
District Jalgaon
5. The Gram Sevak,
Gram Panchayat, Wanegaon,
Tq. Pachora, Dist. Jalgaon
6. Smt. Sindhubai Prakash Patil,
Age : 40 years, Occu. Sarpanch
7. Sau. Meerabai Mantul Sonawane,
Age : 38 years, Occu. Deputy
Sarpanch
8. Chandu Krushnarao Patil,
Age : 40 years, Occu. Agri.
9. Sau. Pratibha Deepak Patil,
Age : 40 years, Occu. Agri.
10. Jyotibai Pating Patil,
Age : 40 years, Occu. Agri.
11. Sau. Afsana Bandu Tadvi,
Age : 35 years, Occu. Labour
12. Ajay Ramesh Sansare,
Age : 25 years, Occu. Labour

Respondent Nos.6 to 12 are
R/o Wanegaon, Tq. Pachora,
Dist. Jalgaon

RESPONDENTS

Mr. Vijay Y. Patil, Advocate for the petitioners
in Writ Petition No.125 of 2017
Mr. Mahesh S. Deshmukh, Advocate for the petitioners
in Writ Petition No.3488 of 2017 and for the applicants
in Review Application No.95 of 2017
Mr. Prakash S. Paranjape, Advocate for the applicant/
Intervenor in Civil Application No.5105 of 2018
Mr. S.J. Salgare, A.G.P. for the respondents/State

**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

**JUDGMENT RESERVED ON : 6th SEPTEMBER, 2018
JUDGMENT PRONOUNCED ON : 28th SEPTEMBER, 2018**

COMMON JUDGMENT (PER : SANGITRAO S. PATIL, J.) :

Rule, made returnable forthwith. With the consent of the learned counsel for the parties and the learned A.G.P., the Writ Petitions and Review Application are heard finally.

2. Common questions of law and facts are involved in the above numbered matters. Hence, they are being decided by this common judgment.

3. Writ Petition No.125 of 2017 has been filed by four ex-members of Village Panchayat, Wanegaon, Taluka Pachora, District Jalgaon (hereinafter referred to as

"Ex-Members"), while Writ Petition No.3488 of 2017 and Review Application No.95 of 2017 have been filed by three sitting members of the said Village Panchayat (hereinafter referred to as "Sitting Members"). Civil Application No.5105 of 2018 has been filed by an intervenor, who claims to have contested the fresh elections of the said Village Panchayat.

4. The facts necessary for deciding these proceedings, in short, are that Village Panchayat, Wanegaon comprises of seven members. The election of the said Village Panchayat was held on 4th August, 2015. The Sarpanch and Up-Sarpanch were elected in the meeting dated 16th September, 2015. The term for elected members of the Village Panchayat was of five years and as such, was to come to an end on 15th September, 2020. Out of the seven members, four members of the Village Panchayat resigned on 12th January, 2016. Since their resignations were accepted and since more than half of the posts of members of Village Panchayat became vacant, the Block Development Officer of Panchayat Samiti, Pachora made a report to the Chief Executive Officer of the Zilla Parishad, who, in turn, reported that fact to the Collector and then, the Collector recommended to the

Divisional Commissioner for dissolution of the Village Panchayat. After receiving that report, the Divisional Commissioner issued notices to the Sitting Members and heard them on the point whether the Village Panchayat should be dissolved or otherwise. The Sitting Members opposed the dissolution of the Village Panchayat on the say that they are elected members of the Village Panchayat for a period of five years. The period of more than about four years was available for them to work as the representatives of the villagers. They are entitled to work as such until their term of five years is over. The post of Sarpanch is reserved for woman and the Sitting Member i.e. Sindhubai Prakash Patil was the Sarpanch. The three Sitting Members should not be made to suffer because of the highhanded act of the Ex-Members. The Sitting Members, therefore, prayed that by-elections for the vacant four posts may be held instead of dissolving the Village Panchayat. According to them, it was the discretion of the Divisional Commissioner to dissolve the Village Panchayat or declare by-elections. The provisions of Section 145 (1-A) of the Maharashtra Village Panchayat Act, 1958 ("Act", for short) are not mandatory. Considering the objections raised by the Sitting Members, the Divisional Commissioner decided not

to dissolve the Village Panchayat, but to hold by-elections for four vacant posts of the members of Village Panchayat. Accordingly, he passed an order dated 30th May, 2016.

5. The Ex-Members filed Writ Petition No.125 of 2017, claiming the following reliefs :-

- (A) This Writ Petition may kindly be allowed.
- (B) Issue a writ of mandamus or any other appropriate writ or direction in the like nature thereby directing respondents No.1 to 4 to take decision of dissolution of Gram Panchayat, wanegaon, Tq. Pachora, Dist. Jalgaon forthwith and further direct the respondents No.1 to 4 to take fresh election of village Wanegaon, Tq. Pachora, Dist. Jalgaon.
- (C) Issue a writ of mandamus or any other appropriate writ or direction in the like nature restraining to respondent No. 6 to 8 from taking any financial decision of village Gram Panchayat.
- (D) Issue a writ of mandamus or any other appropriate writ or direction in the like nature thereby directing respondents No.1 to 4 to take steps for election of four posts of members of Gram Panchayat, wanegaon, Tq. Pachora, Dist. Jalgaon within a period of 2 months.
- (E) Any other suitable and equitable relief to which the petitioner is entitled in law and equity may kindly be granted."

6. After hearing the learned counsel for the Ex-Members and the learned A.G.P. For the Divisional

Commissioner, this Court passed an order on 12th January, 2017 and granted ad-interim relief in terms of prayer clause (B) above and directed the Divisional Commissioner to take decision within two weeks from the date of the said order. In compliance with the said order, the Divisional Commissioner, without giving an opportunity of hearing to the Sitting Members, passed an order on 23rd February, 2017, set aside his earlier order dated 30th May, 2016, dissolved the Village Panchayat and ordered to hold fresh elections.

7. The Sitting Members then filed Writ Petition No.3488 of 2017, challenging the order dated 23rd February, 2017, passed by the Divisional Commissioner and also filed Review Application No.95 of 2017 for recalling the order dated 12th January, 2017 passed by this Court in Writ Petition No.125 of 2017. They further claimed stay to the execution and implementation of the order dated 23rd February, 2017 passed by the Divisional Commissioner. After hearing the learned counsel for the Sitting Members, the Ex-Members and the learned A.G.P., this Court passed the following order on 5th May, 2017.

"4. Considering the fact that nominations are to be filled-in from today and the Writ

Petitions are still pending, the elections to be held pursuant to the notification issued dissolving the Grampanchayat, shall be subject to the decision in the pending Writ Petitions and the same shall be notified by the respondent/authority.

5. Place the matter on 14.06.2017."

8. It is submitted at the Bar that fresh elections of the Village Panchayat have been held on 27th May, 2017, but the results thereof have been withheld subject to decision of the above numbered Writ Petitions.

9. The learned counsel for the Sitting Members submits that Writ Petition No.125 of 2017 is not at all maintainable in view of the prayers made therein. The said Writ Petition is misconceived. The Ex-Members misrepresented the facts before the Court and got interim relief in terms of prayer clause (B) of the Writ Petition, directing the Divisional Commissioner to take decision of dissolution of the Village Panchayat, which was not permissible in view of Section 145 (1-A) of the Act. He cited certain rulings of this High Court wherein it has been held that the provisions of Section 145 (1-A) of the Act are directory and not mandatory. It is

at the discretion of the Government to dissolve the Village Panchayat or to hold re-elections. The powers have been delegated to the Divisional Commissioner to take such a decision. The discretion of the Divisional Commissioner cannot be fettered by giving any specific direction either to dissolve the Village Panchayat or hold fresh elections. The learned counsel submits that because of the misrepresentations made by the Ex-Members, this Court has observed in the order dated 12th January, 2017 that in view of the provisions of Section 145 (1-A) of the Act, the Collector has no option but to dissolve the Village Panchayat and hold fresh elections when more than half of the total number of seats have become vacant. He submits that the Ex-Members have made a wrong statement in paragraph No. 8 of Writ Petition No.125 of 2017 that the Sitting Members have preferred Village Panchayat Appeal under Section 155 of the Act, which means that they are dissatisfied with the order passed by the Divisional Commissioner.

10. The learned counsel submits that the Ex-Members did not challenge the order dated 30th May, 2016 passed by the Divisional Commissioner in Writ Petition No.125 of 2017. They did not pray for quashing and setting

aside the said order. The prayers made by them are misconceived and are not at all tenable. The learned counsel submits that since the order dated 12th January, 2017 passed by this Court is based on the misrepresentations made by the Ex-Members and since it has been passed on the assumption that once half of the total number of seats in a Village Panchayat became vacant, the Government has no option but to dissolve the Village Panchayat and hold fresh elections, which is against the judgments delivered by this Court. The order dated 12th January, 2017, therefore, is liable to be recalled. There is apparent error on the face of record as seen from the said order. The learned counsel then submits that since the Ex-Members did not seek the relief of setting aside or quashing of the order dated 30th May, 2016, Writ Petition No.125 of 2017 is liable to be dismissed.

11. The learned counsel for the Sitting Members further submits that the Divisional Commissioner has passed the order dated 23rd February, 2017, dissolving the Village Panchayat and declaring fresh elections without extending the Sitting Members an opportunity of hearing. This is again against the settled position of

law that prior to dissolving the Village Panchayat, an opportunity of hearing should be given to the members who are going to be affected. The learned counsel submits that one of the Sitting Members namely Sindhubai Patil is the Sarpanch of the Village Panchayat and another Sitting Member Meerabai Sonawane is the Up-Sarpanch. The Ex-Members were not happy in seeing those women holding the said posts. They could not successfully bring a Motion of No Confidence against these women office bearers. Therefore, with ulterior motive, they decided to resign and seek dissolution of Village Panchayat within a period of one year of the appointment of these women Sitting Members as Sarpanch and Up-Sarpanch, respectively. This act of the Ex-Members would frustrate the very object of giving reservation of seats as contemplated under Article 243-D of the Constitution of India.

12. The learned counsel submits that the Divisional Commissioner had rightly passed an order dated 30th May, 2016 for holding by-elections for four vacant posts only. He had used his discretion judiciously after hearing the Sitting Members. The discretion of the Divisional Commissioner could not have been fettered by

passing the order directing him to hold fresh elections for the entire Village Panchayat as claimed by the Ex-Members. The learned counsel, therefore, submits that the interim order dated 12th January, 2017 passed by this Court may be recalled, the order dated 30th May, 2016, passed by the Divisional Commissioner may be revived and the order dated 23rd February, 2017, passed by the Divisional Commissioner may be quashed and set aside. He submits that once the interim order dated 12th January, 2017 is recalled and the order dated 30th May, 2016, passed by the Divisional Commissioner is revived, Village Panchayat, Wanegaon also would get revived automatically and the by-elections for four vacant posts could be held. The learned counsel submits that since the results of the fresh elections held on 27th May, 2017 have not yet been declared, there would be no further complications. He submits that Section 44 of the Act would take care of the coram for conducting the business of Village Panchayat.

13. The learned counsel for the Ex-Members submits that since more than half of the total number of seats in Village Panchayat, Wanegaon had become vacant because of resignation of these four members, the said Village

Panchayat was required to be dissolved. However, the Divisional Commissioner instead of dissolving the Village Panchayat, directed to hold by-elections for four posts only vide order dated 30th May, 2016. Therefore, it was necessary to issue directions to the Divisional Commissioner to dissolve the Village Panchayat. Accordingly, this Court passed order on 12th January, 2017 and granted interim relief in terms of prayer clause "B". The Divisional Commissioner then passed the order dated 23rd February, 2017, dissolving the Village Panchayat and directed to hold fresh elections. Accordingly, fresh elections have been held. In the changed circumstances, the order dated 12th January, 2017 cannot be recalled. He supports the said order and prays that Review Application No.95 of 2017 and Writ Petition No.3488 of 2017 may be dismissed.

14. The learned A.G.P. Submits that the divisional Commissioner has cancelled the order dated 30th May, 2016 by his subsequent order dated 23rd February, 2017. Since the order dated 30th May, 2016 is not in existence, the Writ Petition has become infructuous. Consequently, it is liable to be disposed of.

15. The learned counsel for the intervenor submits

that the intervenor contested the Village Panchayat elections held on 27th May, 2017. The votes were counted in his presence and he noted that he has got sufficient votes for getting elected. He, therefore, prays that the results of the elections may be ordered to be declared.

16. It would be worthwhile to reproduce here Section 145 (1-A) of the Act, which reads as under :-

“(1-A) If more than half the total number of seats in a Panchayat have become vacant, the State Government may, by order in the Official Gazette, dissolve such panchayat.”

17. The learned counsel for the Sitting Members has cited the judgments in the cases of **Shivaji Maruti Shingate & ors. Vs. State of Maharashtra & ors. 2007 (5) Mh.L.J.109, Omprakash Kawaduji Desai & ors. Vs. State of Maharashtra & ors. 2009 (5) Mh.L.J.103** and **Kavita Sakharam Chavan & others Vs. Commissioner, Konkan Division & others 2002 (4) All.M.R.741** wherein the Division Benches of this Court have consistently held that the provisions of Section 145 (1-A) of the Act are directory, vesting discretion with the State Government either to dissolve the Village Panchayat or declare by-elections in respect of vacant posts. In the case of

Kavita Sakharam Chavan and others (supra), the following two questions were framed by the Division Bench of this Court :-

- (i) Whether it is mandatory to dissolve a Village Panchayat under the provision of section 145 (1-A) of the said Act, if more than half the total number of seats in a Panchayat become vacant ?
- (ii) Is it not necessary to provide a hearing to the members of the Village Panchayat before a decision to dissolve the Panchayat is arrived at ?

18. After considering the rival contentions and the provisions of Article 243 of the Constitution of India, the said questions were answered in the following terms.

- (i) The provision of section 145 (1-A) of the Bombay Village Panchayats Act, 1958 will have to be read not as a mandatory but a directory one containing a discretion with the State Government. It is not that when the majority of the seats fall vacant that the Government can straightway dissolve a Panchayat.
- (ii) It is just and necessary that when at any time such a decision to dissolve a Panchayat is to be arrived at, the members of the Village

Panchayat ought to be heard. We read such a provision for a hearing in Section 145 (1-A) of the said Act.

19. Considering the use of word "may" in Section 145 (1-A) of the Act and the above cited rulings, the observation made by this Court in paragraph No. 6 of the order dated 12th January, 2017 that perusal of the provision of Section 145 (1-A) reveals that the Collector has no option but to dissolve the Gram Panchayat and hold fresh elections with further observations that the similar view has been taken by the Division Benches of this Court in the cases of **Sou. Jamuna Mahadeo Dalvi and ors.** (supra), **Omprakash K. Desai** (supra) and **Shivaji Maruti Shingate and ors.** (supra), seems to be an error apparent on the face of record. It is clear that on the basis of the above mentioned observations, interim relief in terms of prayer clause (B) came to be granted vide order dated 12th January, 2017, which had the effect of taking away discretion of the Divisional Commissioner vested in him under Section 145 (1-A) of the Act.

20. In para 8 of Writ Petition No.125 of 2017, it was specifically mentioned by the Ex-Members that the

Sitting Members have preferred Gram Panchayat appeal under Section 155 of the Bombay Village Panchayat Act, 1958, which means that they are not satisfied with the order passed by the Divisional Commissioner. The cognizance of the said statement was taken by this Court as seen from paragraph No.4 of the order dated 12th January, 2017 on being submitted that against the order of the Divisional Commissioner, the remaining members of the Village Panchayat, Wanegaon (i.e. the Sitting Members) had filed an appeal/revision before the Hon'ble Minister. However, the appeal came to be dismissed. This submission was not based on the factual position as seen from the appeal memo (Exh.D), annexed by the Ex-Members with their petition. In paragraphs No.4, 5 and 7 thereof, it is specifically mentioned that the Divisional Commissioner has passed a legal and proper order dated 30th May, 2016. In prayer clause (B) also, it is mentioned that the order dated 30th May, 2016 passed by the Divisional Commissioner should be maintained as it is. The only prayer made in that appeal was that the Ex-Members should not be allowed to contest the by-elections. As such, the Ex-Members misrepresented the facts before this Court to create an impression that even the Sitting Members also were not

satisfied with the order dated 30th May, 2016 and this also was one of the considerations while passing the order dated 12th January, 2017, granting interim relief in terms of prayer clause (B).

21. As seen from the order dated 23rd February, 2017, passed by the Divisional Commissioner, he recalled the order dated 30th May, 2016 merely on the basis of the order dated 12th January, 2017 passed by this Court. It is, thus, clear that the Divisional Commissioner has not passed the said order by exercising the discretion vested in him under Section 145 (1-A) of the Act. Moreover, no opportunity of hearing was given to the Sitting Members before passing the said order. Had the Divisional Commissioner given an opportunity of hearing to the Sitting Members, they would have immediately approached this Court to get the interim order dated 12th January, 2017 modified and recalled. Anyway, the right of hearing has been denied by the Divisional Commissioner to the Sitting Members, which also vitiates the order dated 23rd February, 2017.

22. Here, reference may be made to the provisions of Section 44 of the Act which read as under:-

"44. Vacancy not to affect proceedings of Panchayat.-

(1) During any vacancy in the Panchayat the continuing members may act as if no vacancy had occurred.

(2) Subject to the provisions of sub-section (1-A) of Section 145, the Panchayat shall have power to act notwithstanding any vacancy in the membership or any defect in the constitution thereof; and such proceedings of the Panchayat shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings.

(3) No act or proceedings of a Panchayat shall be deemed to be invalid on account of any defect or irregularity in any such act or proceeding not affecting the merits of the case or on account of any irregularity in the service of notice upon any member or for mere informality.

The deeming provision contained in sub-section (1) above makes it clear that vacancy in the membership of the Village Panchayat would not affect the proceedings of the Village Panchayat. Thus, the question of coram would not arise for taking decisions by the existing members of the Village Panchayat, though their strength is less than half of the total number of seats of the Village Panchayat.

23. The Ex-Members have not prayed for quashing and setting aside the order dated 30th May, 2016, passed by

the Divisional Commissioner, in Writ Petition NO.125 of 2017. The prayers made in writ Petition No.125 of 2017 are exfacie misconceived. No such prayers can be entertained. It is well settled that if final relief cannot be granted, then interim relief also cannot be granted. Since the order dated 30th May, 2016 has not been challenged by the Ex-Members in Writ Petition No.125 of 2017 and since nothing wrong has been noticed in the order dated 30th May, 2016, Writ Petition No.125 of 2017 would be liable to be dismissed. The order dated 12th January, 2017, being an outcome of misrepresentation and an error apparent on the face of record, will have to be recalled and set aside. The order dated 30th May, 2016 is liable to be restored. Once the order dated 30th May, 2016 is restored, the Village Panchayat would get revived, the order dated 23rd February, 2017, which has apparently been passed in compliance with the order dated 12th January, 2017, will have to be quashed and set aside. Since the order dated 12th January, 2017 itself is being recalled, the order dated 30th May, 2016 passed by the Divisional Commissioner would get restored. The fresh elections that were ordered to be held pursuant to the order dated 23rd February, 2017 also will be cancelled as a necessary

corollary. The further steps would be taken by the authorities concerned in terms of the order dated 30th May, 2016 passed by the Divisional Commissioner.

24. The fresh elections held on 27th May, 2017 would not survive once the order dated 23rd February, 2017 is quashed and set aside. Therefore, the claim of the intervener in Civil Application No.5105 of 2018 for declaration of results of fresh elections also would not survive.

25. Considering the above facts and circumstances of the case, Writ Petition No.125 of 2017 is liable to be dismissed. The Ex-Members misrepresented the facts and obtained the interim relief vide order dated 12th January, 2017. The prayers made in the said Writ Petition are not at all tenable. In the circumstances, while dismissing Writ Petition No.125 of 2017, heavy costs will have to be imposed on the Ex-Members. We quantify the costs at Rs.25,000/-. Writ Petition No.3488 of 2017 and Review Application No.95 of 2017 are liable to be allowed. The order dated 12th January, 2017 is liable to be recalled. In the result, we pass the following order:-

ORDER

- (i) Review Application No.95 of 2017 is allowed.
- (ii) The order dated 12th January, 2017, passed by this Court in Writ Petition No.125 of 2017 is recalled.
- (iii) Writ Petition No.125 of 2017 is dismissed with costs of Rs.25,000/-, to be deposited by the petitioners (i.e. Ex-Members) with the office of High Court Legal Services Sub-Committee, Aurangabad.
- (iv) In case the petitioners (i.e. Ex-Members) failed to deposit the amount of costs within a week from today, the Secretary of High Court Legal Services Sub-Committee, Aurangabad shall take necessary steps to recover the same.
- (v) Writ Petition No.3488 of 2017 is allowed.
- (vi) The order dated 23rd February, 2017, passed by the Divisional Commissioner is quashed and set aside.

- (vii) The order dated 30th May, 2016, passed by the Divisional Commissioner is revived and restored.
- (viii) The authorities concerned shall take necessary steps in terms of the order dated 30th May, 2016, passed by the Divisional Commissioner.
- (ix) Civil Application No.5105 of 2017, filed by the intervener, is disposed of.
- (x) Rule is made absolute in Writ Petition No.3488 of 2017 and in Review Application No.95 of 2017.
- (xi) Rule is discharged in Writ Petition No.125 of 2017.
- (xii) The Writ Petitions and Review Application are disposed of in the above terms.

Sd/-
[**SANGITRAO S. PATIL**]
JUDGE

Sd/-
[**T.V. NALAWADE**]
JUDGE