

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

WRIT PETITION NO. 11375 OF 2017

Sanjay s/o Vithal Rathod

.. Petitioner

Versus

The State of Maharashtra and ors.

.. Respondents

Mr P.G. Rodge, Advocate for petitioner

Mr S.G. Karlekar, A.G.P. for respondent no.1

Mr Vivek Bhavthankar, Advocate for respondents no.2, 3 and 6

Mr Mukund Ambekar, Advocate h/f Mr A.G. Deshmukh, Advocate for respondent no.7

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVAL, JJ**

DATE : 3rd April 2018

PER COURT

1. Learned Advocate Mr Bhavthankar submits that he would appear for respondent no.6.
2. The petitioner assails the order dated 16.6.2017 passed by respondent no.2. According to the petitioner, the said order is passed without jurisdiction and following the principles of natural justice. According to the petitioner, he was appointed as a water supply peon on 1.1.2016. However, respondent no.5 prepared a false resolution of Gram Panchayat and submitted it in the office of respondent no.4 – Block Development Officer, Panchayat Samiti, Palam claiming the wages/honourarium of respondent no.7.
3. According to respondent no.7, he was appointed as a Water Supply Peon.
4. We had asked Mr Bhavthankar, learned Counsel for Zilla Parishad as to the powers under which the impugned order dated

16.6.2017 is passed by the Deputy Chief Executive Officer, Zilla Parishad (Panchayat), Parbhani. No such provision is pointed out empowering the Deputy Chief Executive Officer to pass such order.

5. There are rival contentions. The petitioner and respondent no.7, both claim to have been appointed as Water Supply Peon. Respondent no.7 relies on the resolution of the Panchayat dated 25.3.2015, whereas the petitioner relies on the resolution dated 1.1.2016.

6. Section 61 of the Bombay Village Panchayat Act, 1958 prescribes appeal to the Block Development Officer in case some orders are passed by the Gram Panchayat.

7. It appears that the warring factions have placed their own persons in service. Nothing is placed on record as to the process that was followed while appointing either petitioner or respondent no.7. Considering these aspects, we deem it appropriate that the Block Development Officer, Panchayat Samiti Palam considers the resolutions passed by the Gram Panchayat, the procedure adopted by the Gram Panchayat and the person whom the Panchayat had in fact appointed as Water Supply Peon.

8. The impugned order dated 16.6.2017 passed by respondent no.2 - Chief Executive Officer, Zilla Parishad, Parbhani is set aside. Parties are relegated before the Block Development Officer, who shall, after verifying the record of the Gram Panchayat and hearing the parties shall take decision as to the entitlement of the petitioner and/or respondent no.7 to function as Water Supply Peon.

9. The same shall be decided expeditiously, preferably within three months.

10. Writ Petition disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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