

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

950 WRIT PETITION NO.12519 OF 2017

GRAM PANCHAYAT MALANE THROUGH ITS SARPANCH
S.S.SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. P.B.Patil, Advocate for Petitioner
Mrs. G.L.Deshpande, AGP for Respondents-State
Mr. Rahul Pawar, Advocate for Respondent No.3
Mr. N.N.Desale, Advocate for Respondent No.4

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**CORAM : PRASANNA B. VARALE AND
MANGESH S. PATIL, JJ.**

DATE : 07.12.2018

PER COURT :-

1. Heard the learned counsel for the petitioner. The petitioner is a Gram Panchayat of Village Malane and the village Panchayat Malane filed this Petition through Sarpanch raising a grievance in the petition and prayed for quashing the letters dated 03.06.2017 and 06.06.2017. Then a prayer is made in the petition that by appropriate writ in the nature of Certiorari or any other writ of like nature or by appropriate orders it be declared that only petitioner is entitled for award of smart village as per resolution dated 21.11.2016. The learned counsel invited

our attention to a Government resolution dated 21.11.2016.

2. It is submitted by the learned counsel that the State Government on the back drop of different considerations, grants a certificate to the Gram Panchayat as 'Smart Village Panchayat'. The perusal of the Government Resolution shows that there is a provision of two tier selection committee. The first committee consists of Block Development Officer or Assistant Block Development Officer, Extension Officer (Health), Extension Officer (Agriculture), Junior Engineer (Water Supply), Assistant Audit Officer and Taluka Extension Officer Panchayat. The second Committee, which is at District level, consists of Chief Executive Officer Zilla Parishad, District Health Officer, District Agricultural Development Officer, Executive Engineer (Water Supply), Executive Engineers (Construction), Chief Accountant, Audit Officer Zilla Parishad, Deputy Chief Executive Officer, Gram Panchayat. The word 'SMART' is the abbreviation of Sanitation, Management, Accountability, Renewable energy and Environment, Transparency and Technology. Then there is provision of allotment of marks under various heads such as Sanitation, Management, Accountability, Renewable energy and Environment, Transparency and Technology. As

per Schedule B of the Government resolution, the entire exercise of the scheme is formulated and 1st May i.e. Maharashtra day is selected as a day for distribution of the award at Gram Panchayat level.

3. It is then submitted by the learned counsel for the petitioner that the petitioner village had undergone the scrutiny and the petitioner village Malane, Taluka Dhule as well as another village Gram Panchayat Malanjan Sakri secured equal marks. As such, by communication dated 29.04.2017, the Chief Executive Officer, Zilla Parishad, Dhule informed the Sarpanch Malane that these two village Panchayats secured equal marks and they would share the first position. Then it is informed that the prize distribution ceremony is scheduled on 1st May 2017. On the very date i.e. on 29.04.2017, the President of Zilla Parishad, Dhule submitted a communication to the Collector, Dhule. It was submitted in the communication that complaints are received about the selection process and the President of the Zilla Parishad requested for fresh inspection and re-assessment. On 18.05.2017, the Chief Executive Officer, Zilla Parishad informed the Additional Chief Executive Officer, Zilla Parishad, Dhule that in view of his transfer, the Additional

Chief Executive Officer is delegated with the assignment of fresh inspection. Then it was submitted before us that in the exercise of fresh assessment, the petitioner village could obtain 73 marks whereas the other village Malanjane obtained 81.5 marks. It was the submission of the learned counsel that in the fresh assessment or the re-assessment the marks to the petitioner village are reduced and it is only on the insistence of some political person, the petitioner village is kept out of consideration. It is the submission of the learned counsel that this is an act of discrimination. Thus on these submissions, the learned counsel for the petitioner prays for allowing the petition.

4. The learned counsel appearing for Respondent No.3 / The Chief Executive Officer, Zilla Parishad, Dhule submitted that the exercise of fresh assessment was undertaken in view of the complaints received and the Additional Chief Executive Officer assigned the marks in his fresh assessments to each heads and as per this assessment marks were allotted. It is the submission of the learned counsel that there is no question of any pressure on the authority but is the subjective satisfaction of the authority as per the guidelines of the Government resolution. The learned counsel appearing

for Respondent No.3 / Zilla Parishad further submitted that no prize is awarded to any of the Village Panchayat either the petitioner village Panchayat Malane or the other village Panchayat Malanjan. Though the learned counsel vehemently submitted that the petitioners are before this Court on the ground of discrimination and as such, the Writ Petition is filed in this Court.

5. In our opinion, the petition cannot be entertained by this Court. The Government resolution dated 21.11.2016 is only to provide some incentive to the Gram Panchayats and the object is that there shall be a proper coordination for implementation of various Government schemes and to achieve the object of environmental balance with a public participation. Now considering this object, it cannot be said by any stretch of imagination that a village so selected under the scheme gets a right to approach this Court on the ground that there is an infringement of any fundamental right and non selection of one village or selection of another village is an act of discrimination.

6. Now coming to the facts of the matter, though it is submitted by the learned counsel that in the fresh assessment the marks to the petitioner village are reduced

purposely, we are unable to accept even this submission for the reason that the exercise of re-assessment is undertaken on the directions of the Chief Executive Officer and this re-assessment was done by the committee consisting of the Deputy Chief Executive Officer, the Executive Engineer (Construction), the Agricultural Extension Officer, the District Health Officer, the Executive Engineer (Water Supply), Chief Accountant and Finance Officer and the delegatee of the Chief Executive Officer namely the Additional Chief Executive Officer. The perusal of the assessment shows that the committee recorded their remarks against each material heads and there are approximately 25 points and marks are allotted to each point. The perusal of the assessment sheet placed on record shows that there is a critical assessment. For example, we may state that against the head of the drainage system. It is stated that in so far as the village Panchayat Malane is concerned, there is no proper connection to the main drainage whereas in so far as the under ground drainage is concerned, it also refers that the Malane is having 75.21 under ground gutter for drainage of waste water. Then it also refers to the construction in respect of the Gharkul under the Scheme namely Dindayal Upadhyay Housing

Scheme. Then there is also reference to collection of electricity bills about the services being provided by the Panchayat and thus on this critical assessment, marks allotted to petitioner village are 73 whereas marks allotted to the other village are 81.5.

7. Considering these facts, we are of the clear opinion that the grounds raised in the petition for seeking issuance of writ are clearly unsustainable and the petition filed in this Court under Article 226 of Constitution of India is only on the assumption of the petitioner.

8. Thus the petition being thoroughly meritless and same is dismissed.

(MANGESH S. PATIL, J.)

(PRASANNA B. VARALE, J.)

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