

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

**CIVIL APPLICATION NO.14750 OF 2018
IN WP/9340/2018**

**THE STATE OF MAHARASHTRA THROUGH DISTRICT COLLECTOR
DHULE
VERSUS
ANITA JITESH PANPATIL AND OTHERS**

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**AGP for the Applicant : Shri N.T.Bhagat.
Advocate for the original Petitioner : Shri A.S.Savale.
Advocate for Respondents 3 to 14 : Shri N.L.Chaudhari.**

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th December, 2018

Per Court:

1 The learned AGP submits that this Civil Application is filed for seeking deletion and for expunging the observations of this Court made in paragraphs 3 and 4 of the order dated 23.10.2018 on the ground that the order that was cited before this Court, when it considered Writ Petition No.9340/2018, was at page 35 of the petition paper book, which was purely a communication in the form of a covering letter/ intimation to the Petitioner (Anita Panpatil). The entire order was not pointed out and today, the learned AGP has placed the said order on record at pages 11 and 12 along with this Civil Application.

2 The learned AGP has strenuously canvassed the contentions

set out in the Civil Application. He has heavily criticized the Petitioner for having placed the communication on record in the Writ Petition by terming it to be the impugned order. Fault lies with the Petitioner. Since this was not pointed out, the learned AGP had no option, but to submit that the said order runs into three sentences.

3 The learned AGP further submits that if the order dated 07.08.2018 placed on record is perused, it would indicate that the District Collector has duly considered the entire proceedings before him, has applied his mind and has passed the order rejecting the proceedings.

4 The learned Advocate for the original Respondent Nos.3 to 14 submits, on the basis of the telephonic instructions received by him from his clients, that this application need not be entertained as the District Collector has already complied with the directions of this Court dated 23.10.2018 and has already disposed of the proceedings.

5 Shri Savale, learned Advocate for the original Petitioner, submits that even if the full text of the order dated 07.08.2018 is perused, it would indicate that the District Collector did not even accept the proceedings and he dismissed the same on the ground that "प्रकरण दाखल करून घेण्याच्या मुद्द्यावर फेटाळण्यात येत आहे".

6 He further submits that he had approached this Court with the copy of the order that was shown to him by his client. His client had received only the communication, which in fact appears to be an order.

Had the District Collector mentioned in the communication that a separate order has been passed and had he enclosed the copy of the said order along with the communication, the Petitioner would have placed even that order before this Court.

7 In view of the above, I do not find that the Petitioner has deliberately suppressed any order from this Court since she received merely a communication. The communication does not indicate that the copy of the order is enclosed, which establishes that the said order was not served upon the Petitioner.

8 I have perused the order passed by the District Collector dated 07.08.2018. My observations in the order dated 23.10.2018 that the District Collector has not applied his mind, do not appear to be misplaced. The order dated 07.08.2018 indicates that the District Collector, in fact had not applied his mind to the case since he has recorded that he has perused the document, he has considered the contentions, no case law is cited and hence, it would be inconsequential or unnecessary to take up the proceedings for hearing.

9 The District Collector must note that he does not have the powers of admission of the matter akin to the powers vested in the High Court under Articles 226 and 227 of the Constitution of India. He cannot decide whether, the proceeding deserves to be admitted or thrown out before admission. If the proceeding is initiated under Section 35 (A and B)

of the Maharashtra Village Panchayats Act, it has to be considered on its own merits. If the Authority does not have the jurisdiction, a reasoned order has to be passed. The District Collector cannot throw out the proceeding on the ground that it is unnecessary to take up the proceeding and it need not be admitted.

10 In the light of the above and despite the strenuous and valiant attempt of the learned AGP, I do not find any merit in this civil application and the same is, therefore, rejected. However, I find no lapse on the part of the learned AGP, who had represented the State in the said writ petition.

kps

(RAVINDRA V. GHUGE, J.)