

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 3837 OF 2018****Kalpana Namdeo Khodake****..... Petitioner****VERSUS****Jivan Namdev Gatave & Ors.****..... Respondents**

Mr.Prashant D. Patil for the Petitioner.

Mr.Sachin Gite for the Respondent no.1.

Ms.K.N.Solunke, A.G.P. for the State – Respondent no. 5.

CORAM : R.D. DHANUKA, J.**DATE : 5th APRIL, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 5th March,2018 passed by the learned Collector, Nashik in Gram Panchayat Complaint Application No.61 of 2017.

2. The petitioner was elected on 23rd March, 2017 as Sarpanch of the Gram Panchayat of the village Pimpalgao Bhor. One of the villager filed an application on 3rd June, 2017 under Right to Information Act seeking information about the meetings if any, held by the petitioner as the Sarpanch of Grampanchayat. The said information was provided on 5th June, 2017 to the said applicant. The respondent no.1 thereafter filed a complaint before the learned Collector, Nashik on 2nd August,2017 based on the said information *inter alia* praying for disqualification of the petitioner from the post of Sarpanch. The Learned Collector called for a report from the respondent no.2 which

was submitted on 26th November,2017. The petitioner filed her say before the learned Collector. The learned Collector passed an order on 5th March,2018 thereby disqualifying the petitioner from the post of Sarpanch and also disqualifying the petitioner from contesting further elections of Sarpanch. This order of the learned Collector is impugned in this petition filed under Article 227 of the Constitution of India.

3. Learned counsel for the petitioner submits that the Gram Sevak Mr.Balu Mangte was on already leave from 24th March, 2017 till 30th May, 2017 and was thereafter transferred on 31st May,2017 and thus could not have furnished any information on 5th June,2017. He submits that the records of the Grampanchayat were illegally kept in custody of the said Mr.Balu Mangte and he could not have furnished those information when he was already transferred from the Grampanchayat in question on 31st May,2017.

4. It is submitted by the learned counsel that the learned Collector had relied upon irrelevant material and has rendered perverse findings of fact against the petitioner. It is submitted that the complaint filed by the respondent no.1 was a false complaint based on which the learned Collector illegally disqualified the petitioner from the post of Sarpanch and from contesting the election in future.

5. Mr.Gite, learned counsel for the respondent no.1 submits that the said Mr.Balu Mangte was though transferred, he was allowed to continue to hold the post till handing over charge on 14th June, 2017. During this period, the said officer had furnished various information

under the Right to Information Act based on the prevailing record of the Grampanchayat. It is submitted that the learned Collector had called for records from the respondent no.2 and also perused the original record and has rightly rendered various findings of fact including the finding of manipulation of the record of the Grampanchayat against the petitioner. He submits that there is no infirmity in the order passed by the learned Collector.

6. A perusal of the documents produced by the learned counsel for the respondent no.1 indicates that the said Mr.Balu Mangte had been though transferred was allowed to act on the said post till 14th June,2017. The application under the provisions of the Right to Information Act was made by one of the villager about the conduct of the meetings if any, held by the petitioner as a Sarpanch of the said Panchayat. The said Mr.Balu Mangte as a Gram Sevak was empowered to issue such information under the provisions of the Right to Information Act and has furnished those details showing that the petitioner had failed to conduct three meetings of the Grampanchayat. Based on those information, the respondent no.1 has filed complaint to the learned Collector against the petitioner *inter alia* seeking disqualification of the petitioner in view of the violations of the provisions of the Maharashtra Village Panchayat Act, 1958.

7. The learned Collector considered these details and also considered the report submitted by the respondent no.2. The learned Collector also after hearing the parties and after considering the record of the Grampanchayat has rendered a finding of manipulation of the

record by the petitioner. It is also held by the learned Collector that the petitioner had failed to conduct three meetings and has thus committed violation of the provisions of Maharashtra Village Panchayat Act, 1958. The petitioner having not conducted meeting had been rightly disqualified to continue to act as Sarpanch and from contesting election in future. In my view the findings rendered by the learned Collector is based on the record produced by parties before him and after hearing both the parties. There is no perversity in the finding rendered in the order passed by the learned Collector. I do not find any infirmity in the impugned order passed by the learned Collector.

8. The petition is devoid of merit and is accordingly dismissed. No order as to costs.

[R.D. DHANUKA, J.]