IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.8677 OF 2018

1. Mrs. Ashwini Shivaji Asawale)
Age : Occ.: Housewife,)
R/o. At Post Takave Budruk)
Taluka: Maval, District : Pune)

2. Smt.Mina Suresh Asawale)
Age : Adult, Occ.: Housewife,)
R/o. At Post Takave Budruk)
Taluka: Maval, District : Pune) .. Petitioners

Versus

1. The Additional Divisional Commissioner)
Pune Council Hall, Pune Pin: 411 001.)

2. The Collector, Pune)
New Collector Office opposite Sasoon)
Hospital, Pune Pin : 411 011.)

3. The Chief Executive Officer)
Zilla Parishad Pune, New Administrative)
Building, Pune Camp Pin : 411 011.)

4. Mr. Babaji Tukaram Gaikwad)
Age: Adult, Occ: Agriculturist,)

R/o. At Post Takave Budruk)
Taluka: Maval, District : Pune)

5. The State of Maharashtra) .. Respondents

Mr.Atul G. Damle, Senior Advocate i/by Mr.Chetan Nagare for the petitioners.
Mr.S. H. Kankal, AGP for the respondent nos.1, 2 & 5-State.
Mr.S.M. Gorwadkar, Senior Advocate a/w Mr.Chetan Alai & Mr.Sandeep Satkar for the respondent no.4.

CORAM : R.D. DHANUKA, J.
RESERVED ON : 19th July 2018
PRONOUNCED ON : 1st August 2018

Judgment :

. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 14th March 2018 passed by the learned Additional Divisional Commissioner, Pune in Appeal (Grampanchayat) bearing No.25 of 2017 filed by the respondent no.1. Some of the relevant facts for the purpose of deciding this petition are as under :-

2. The petitioner nos.1 & 2 were elected for the post of Members of Gram Panchayat, Village Takave Budruk, Taluka Maval, District Pune on 6th August 2015. It is the case of the petitioners that the petitioner no.1 is having a joint family and the properties bearing

No.41/2 and 502 situated within the jurisdiction of Takave Budruk Grampanchayat. The said properties are in the joint name of the petitioner no.1 and her husband. The petitioner no.2 is also having a joint family and the properties bearing No.430, 432 situated within the jurisdiction of Takave Budruk Grampanchayat which are in the joint name of the petitioner no.2 and her husband.

3. On or about 5th April 2016, the respondent no.4 filed a complaint before the learned Collector, Pune bearing Complaint No.36 of 2016 against the petitioners under Section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 alleging that the property tax in respect of the property bearing no.41/2 and 502 situated within the jurisdiction of Takave Budruk Grampanchayat which is in the joint name of the petitioner no.1 and her husband was not paid within the stipulated time even after issuance of the demand notice/bill dated 2nd August 2013 amounting to Rs.2,756/- and demand notice/bill dated 5th June 2014 amounting to Rs.5,515/-. The petitioner no.1 had paid the due amount of Rs.6,512/- towards the property tax in respect of the property bearing no.666 and 64 on 20th July 2015 and also current tax amounting to Rs.1,756/- in respect of the aforesaid properties on 9th March 2016 which amounts were paid after the stipulated time.

4. In so far as the petitioner no.2 is concerned, it was alleged in the said complaint filed by the respondent no.4 that the property tax in respect of the property bearing No.430 and 432 situated within the jurisdiction of Takave Budruk Grampanchayat which is in the joint name of the petitioner no.2 and her husband was not paid within the stipulated time even after issuance of the demand notice/bill dated 5th June 2014 amounting to Rs.6,684/-. The said amount was paid by the petitioner no.2 on 1st March 2016.

5. It is the case of the petitioners that on 15th April 2017, the petitioners had applied under the provisions of Right to Information Act to the Grampanchayat Takave Budruk for seeking information regarding the demand notice/bill in respect of the property tax issued by the Grampanchayat Takave Budruk to the petitioners and which had been allegedly acknowledged by the petitioners during the period of 2011-12 to 2015-16. The Grampanchayat replied to the said application under the provisions of Right to Information Act filed by the petitioners and furnished various information.

6. It is submitted that according to the said information furnished by the said Grampanchayat, it is clear that during the financial

year 2011-12 and 2012-13, insofar as the petitioner no.1 is concerned, there was neither any demand notice / bill issued for the alleged dues of the Grampanchayat taxes to the petitioner no.1 nor any acknowledgement was found in the records of the said Grampanchayat. For the financial year 2013-14, though it indicates from the said information that the demand notice dated 2nd August, 2013 was issued for the payment of Grampanchayat tax for the amount of Rs.2,753/- to the petitioner no.1, there was no acknowledgement in the record of the said Grampanchayat to show that the said bill was served upon the petitioner no.1. Similarly for the financial year 2014-15 also, though there was a bill dated 2nd June, 2014 appears to have been issued by the said Grampanchayat for an amount of Rs.5,512/- towards the Grampanchayat tax, there is no acknowledgement found in the records of the said Grampanchayat showing the service of the said bill upon the petitioner no.1. Insofar as the financial year 2014-15 is concerned, since there was stay on collection of the Grampanchayat tax, there was no demand notice issued by the said Grampanchayat upon the petitioners for the said financial year.

7. Insofar as the petitioner no.2 is concerned, it is submitted that for the financial years 2011-12, 2012-13 and 2013-14, the said

information furnished to the petitioner no.2 would clearly indicate that neither any demand notice / bill was issued upon the petitioner no.2 for those three financial years nor any acknowledgement of the petitioner no.2 was found in the record of the said Grampanchayat. Insofar as the financial year 2014-2015 is concerned, it is submitted that though the notice of demand / bill dated 5th June, 2014 was issued by the said Grampanchayat for payment of the Grampanchayat tax for the amount of Rs.6,684/- to the petitioner no.2, there is no acknowledgement found in the records of the Grampanchayat to show that the said demand notice / bill was served upon the petitioner no.2 at any point of time. Insofar as the financial year 2014-2015 is concerned, since there was stay on collection of the Grampanchayat tax, there was no demand notice / bill issued by the said Grampanchayat to the petitioner no.2.

8. It is submitted by the learned senior counsel for the petitioners that when the petitioners had filed their respective nomination forms for contesting the election of the Gram Panchayat in the year 2015, the Gramsevak of the said Grampanchayat had issued a certificate certifying that there were no dues in respect of the property taxes payable by the petitioners.

9. The respondent no.4 filed a complaint bearing No.36 of 2016 on 5th April, 2016 against the petitioners *inter-alia* praying for disqualification of the petitioners under section 14(1)((h) of the Maharashtra Village Panchayat Act, 1958 on the ground that the petitioners had committed default in making payment of the Grampanchayat Tax prior to the date of the petitioners filing the nomination forms and having been elected as the Councillors.

10. The said complaint was resisted by the petitioners by filing a reply. Learned Collector directed the Chief Executive officer of the Zilla Parishad i.e. the respondent no.3 to carry out necessary enquiry in the said matter and to submit appropriate report to that effect. The Chief Executive Officer of the Zilla Parishad directed the Block Development Officer to submit a report in the said complaint filed by the respondent no.4. The Block Development Officer submitted a report on 30th January, 2017 to the Chief Executive Officer of the Zilla Parishad. The Chief Executive Officer of the Zilla Parishad thereafter submitted a report on 17th March, 2017 to the learned Collector. Learned Collector thereafter passed an order on 3rd November, 2017 rejecting the complaint bearing No.36 of 2016 filed by the respondent no.4. It was held by the learned Collector that there was no acknowledgement of the demand notices /

bills for the Grampanchayat Tax on record and thus the petitioners could not be disqualified under the provisions of section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 on the ground of alleged default.

11. The respondent no.4 preferred an appeal against the order dated 3rd November, 2017 passed by the learned Collector before the learned Additional Divisional Commissioner bearing Appeal No.25 of 2017. Learned Additional Divisional Commissioner passed an order dated 14th March, 2018 thereby allowing the said appeal bearing No.25 of 2017 filed by the respondent no.4 disqualifying the petitioners under section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 as the members of Tekave Budruk Grampanchayat.

12. Mr.Damle, learned senior counsel for the petitioners invited my attention to various annexures to the writ petition and submits that the information received by the petitioners under the provisions of the Right to Information Act from the said Grampanchayat on 15th April, 2017 clearly indicates that insofar as the petitioner no.1 is concerned, for the financial years 2011-12 and 2012-13, neither there was any demand notice / bill for payment of taxes in the record of the Grampanchayat nor

the same was issued upon the petitioners nor any acknowledgement was found in the records of the Grampanchayat. Similarly for the financial years 2013-14 and 2014-15 though the records indicated that the bills were issued by the said Grampanchayat upon the petitioner no.1 for recovery of the Grampanchayat tax, there was no record with the said Grampanchayat showing an acknowledgment of those bills alleged to have been served upon the petitioner no.1. For the financial year 2014-15, no bill was issued by the said Grampanchayat at all in view of there being a stay on the collection of the Grampanchayat tax.

13. Learned senior counsel submits that similarly insofar as the petitioner no.2 is concerned, for the financial years 2011-12, 2012-13 and 2013-14, neither any demand notice / bill was issued by the said Grampanchayat nor any acknowledgement was found in the records of the said Grampanchayat showing the service of those bills upon the petitioner no.2. For the financial year 2014-15 though the notice was alleged to have been issued on 5th June 2014, there was no acknowledgement found in the records of the said Grampanchayat showing the signature of the petitioner no.2 in token of the acknowledgement of receipt of the said bill. He submits that for the financial year 2015-16, since there was stay on the collection of the

Grampanchayat Tax, no demand notices were issued upon the petitioner no.2.

14. Learned senior counsel placed reliance on section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 along with Explanation – 2 which reads thus :-

> ***<u>“Section 14 : Disqualification</u>***
>
> (1) No person shall be a member of a Panchayat continue as such, who –
>
> (a) to (g) …...............
>
> (h) fails to pay any tax or fee due to the Panchayat [for the Zilla Parishad within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him ; or)
>
> (h-1) to (k) …............
>
> ***<u>Explanation 2 .— For the purpose of clause (h) —</u>***
>
> (i) a person shall not be deemed to be disqualified if he has paid the amount of any tax or fee due, prior to the day prescribed for the nomination of candidates ;
>
> (ii) failure to pay any tax or fee due to the Panchayat by a member of an undivided Hindu family, or by a person belonging to a group or unit the members of which are by custom joint in estate or residence, shall be deemed to disqualify all members of such undivided Hindu family or as the case may be all the members of such group or unit.”

15. It is submitted by the learned senior counsel for the petitioners that the petitioners could be disqualified under the said provision only if the petitioner would have failed to pay any taxes or fees due to the Grampanchayat within three months from the date on which amount of such taxes or fees were demanded and a bill for the purpose was duly served on him. He submits that the said Grampanchayat could not produce any proof to show that the demand notices / bills were served upon the petitioners at all for the purpose of collection of the Grampanchayat tax any time prior to the date of the petitioners having been elected as the councilors of the said Grampanchayat.

16. Learned senior counsel placed reliance on the judgment of this Court in case of ***Shaukat Ali Mohd. Hussain vs. Shaikh Ayub s/o Haji Sk.Ahmed & Ors. 2014(4) Mh.L.J. 658*** and in particular paragraphs 14 and 15 in support of the submission that for the purpose of disqualification of a member of the Grampanchayat, not only issuance of a bill demanding payment of the Grampanchayat taxes or fees is mandatory, but also the service of such bill upon such member is mandatory. He submits that the learned Collector had rightly dismissed the complaint filed by the respondent no.4 taking into consideration the relevant fact that the Grampanchayat had failed to produce any proof or

acknowledgement showing service of those demand notices / bills for payment of Grampanchayat tax upon any of the petitioners prior to the date of the petitioners having been elected as the members of the said Grampanchayat.

17. It is submitted by the learned senior counsel that both these petitioners were elected on 6th August, 2015. The respondent no.4, who had filed a complaint, was not elected in the said election and thus had filed a frivolous complaint against the petitioners. It is submitted that the Gramsevak had already issued a certificate on 13th July, 2015 to both these petitioners clearly certifying that no tax dues were in arrears by the petitioners to the said Grampanchayat prior to the date of the petitioners having been elected as the members of the said Grampanchayat.

18. It is submitted by the learned senior counsel that even the report submitted by the Block Development Officer and the Chief Executive Officer of the Zilla Parishad also clearly indicated that none of the petitioners were in default in making payment of any Grampanchayat tax to the said Grampanchayat before the date of the petitioners having been elected as the members of the said Grampanchayat. Neither the reports submitted by the Block Development Officer nor the Chief

Executive Officer of the Zilla Parishad indicated that the petitioners were served with the demand notices/bills for the payment of the Grampanchayat taxes by the said Grampanchayat.

19. Learned senior counsel for the petitioners invited my attention to the affidavit in reply filed by the respondent nos.1 and 5 on 7th April, 2018 and more particularly paragraph 4 thereof and would submit that the respondent nos.1 and 5 are strongly relying upon a letter dated 21st March, 2014 issued by the Gramsevak to the District Legal Aid Services Authority, Shivajinagar, Pune forwarding a list of the defaulters wherein the name of Shri Shivaji Chindu Aaswale had been shown in arrears of Rs.5,512/- at serial no.267. The petitioner no.1 had acknowledged the same by affixing her signature. Similarly the respondent nos.1 and 5 had also placed reliance on the letter 12th April, 2014 from the Gramsevak requesting Taluka Legal Aid Services Authority to accept the pre-litigation petition in the Lok Adalat to decide the cases of defaulters, who had not paid the property taxes of the Grampanchayat.

20. The name of the petitioner no.2 was shown at serial no.106 and an amount of Rs.4,456/- was shown to be in arrears. The said list also

showed the signature of the petitioner no.2. It is submitted that the petitioners had disputed their alleged signatures on the said list. In his alternative submission, it is submitted that in any event, merely on the basis of such acknowledgement, it could not be concluded that the copies of bills were served upon the petitioners prior to the date of the petitioners having been elected.

21. Mr.Gorwadkar, learned senior counsel for the respondent no.4, on the other hand, submits that both the petitioners were defaulters in payment of taxes on the date of filing nomination and had admittedly paid the taxes much after their respective elections. He submits that on 2nd August 2013, Gram Panchayat had demanded tax due from the petitioner no.1 by bill on 2nd August 2013 for Rs.2,756/- for the financial year 2013-14 in respect of the property bearing No.41/2, 502 owned by the joint family of the petitioner no.1. The said bill was served upon the husband of the petitioner no.1 Shivaji Chindhu Asawale on the same date. The acknowledgement of the service of the said bill is on record of the Gram Panchayat. Similarly for the financial year 2014-15, the Gram Panchayat demanded tax of Rs.5,512/- by bill dated 5th June 2014 in respect of the said property which bill was served upon the petitioner no.1 and acknowledge thereof is on the record of the Gram Panchayat.

22. It is submitted by the learned senior counsel that for the financial year 2014-15, the said Gram Panchayat had prepared a list of defaulters in payment of taxes. Bills were served on those defaulters. The husband of the petitioner no.1 had affixed his signature on the acknowledgement of the service of the said list. His name was at Serial No.267 on the said defaulters' list. Learned senior counsel placed reliance on the documents placed on record by the respondent no.4 on 19th January 2018 before the Additional Commissioner, Pune. It is submitted that out of an amount of Rs.8,268/- due and payable by the petitioner no.1, the petitioner no.1 paid an amount of Rs.6,512/- on 20th July 2015 on the day of filing her nomination form for the post of member of the said Gram Panchayat. There was arrears of Rs.1,756/- from the petitioner no.1 which was paid by the petitioner no.1 on 9th March 2016 i.e. much after the petitioner no.1 having been elected as a member of the said Gram Panchayat.

23. In so far as the petitioner no.2 is concerned, it is submitted by the learned senior counsel that the said petitioner no.2 also had not paid the tax for her joint family property bearing Gram Panchayat Property Nos.430 and 432. Gram Panchayat had demanded tax from her joint family in respect of the said properties for the financial year

2013-14 of Rs.4,456/- and bill dated 5th June 2014 was received by the petitioner no.2 from the Gram Panchayat on the same day. The signature as acknowledgement is at serial no.106 in the defaulters' list.

24. It is submitted that for the financial year 2014-15, bill dated 5th June 2014 of Rs.6,684/- was duly served upon the petitioner no.2. The petitioner no.2, however, did not pay the said amount on or before the date of the petitioner no.2 having been elected as a member and had paid an amount of Rs.8,912/- only on 1st March 2016 i.e. after seven months from the date of she having been elected as a member of the Gram Panchayat.

25. Learned senior counsel placed reliance on explanation II of Section 14(1)(h) and would submit that the service of the bill on the husband of the petitioner no.1 was the service of the bill as contemplated under Section 14(1)(h). Both the petitioners were fully aware of the arrears of taxes of the Gram Panchayat prior to the date of their elections as a member of the said Gram Panchayat. It is submitted that the purpose of effecting the service of bill is to put a member to notice that there were arrears of taxes of Gram Panchayat or fees. It is submitted that none of the petitioners have disputed that list of the defaulters provided to

them was bearing their acknowledgement. It is submitted that the fact that both the petitioners had paid arrears of taxes of Gram Panchayat after they having been elected as a member would clearly indicate that both the petitioners were fully aware that there were in arrears of taxes of Gram Panchayat. It is not the case of the petitioners that they came to know about the arrears only after the petitioners having been elected as members of the said Gram Panchayat. It is submitted that certificate issued by the petitioners at the time of filing of nomination form that they were not in arrears was ex facie false and misleading. Similarly, the reliance placed on the alleged certificate issued by the Gram Sevak on the date of filing of nomination form stating that the petitioners were not in arrears is also ex facie false and contrary to the documents on record.

26. In so far as the reliance placed on the information received by the petitioners under the provisions of the Right to Information Act is concerned, it is submitted that for the financial year 2013-14, the said information would indicate that the bill was issued by the Gram Panchayat.

27. Mr.Kankal, learned AGP appearing for the respondent nos.1, 2 and 5 submits that none of the petitioners have explained as to how

they came to know about the arrears of taxes of Gram Panchayat before making payment to the Gram Panchayat and that also much after the petitioners having been elected as members of the said Gram Panchayat. He placed reliance on the report dated 17th March 2017 submitted by the Chief Executive Officer, Pune Zilla Parishad to the learned Collector, Pune and would submit that even the said report clearly indicates that the bills were served upon the petitioners by the Gram Panchayat and inspite thereof there were in arrears.

28. It is submitted that learned Additional Divisional Commissioner has rightly relied upon the report submitted by the Block Development Officer, Panchayat Samiti, Maval stating that the petitioner no.2 was a member of joint family having property bearing nos.430 and 432. Her name was shown in the arrears of Rs.6,684/- for the financial year 2014-15 and that bill dated 5th June 2014 was issued to her but was not paid by her to the Gram Panchayat. Learned AGP also placed reliance on the letter dated 12th April 2014 addressed by the Taluka Legal Aid Authority requesting to accept the pre-litigation petition in Lok Adalat to decide the case of defaulters for not paying the taxes of Gram Panchayat wherein the name of the petitioner no.2 was shown at serial no.106 in respect of the property bearing nos.430 and 432 and showing

the arrears of Rs.4,456/-. The said list also bears the signature of A.S. Asawale.

29. It is submitted by the learned AGP that the learned Additional Divisional Commissioner rightly rendered various findings of facts against the petitioners after considering the documents produced by both the petitioners and has rightly disqualified the petitioners as the members of Gram Panchayat under Section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 for failure to make payment of taxes of Gram Panchayat and such findings cannot be interferred with by this Court under Article 227 of the Constitution of India.

30. Mr.Damle, learned senior counsel for the petitioners in rejoinder would submit that the findings rendered by the learned Additional Divisional Commissioner are perverse. The learned Additional Divisional Commissioner has not considered the documents produced by the petitioners in the impugned order and thus deserves to be set aside. He submits that no documents were produced by the respondent no.4 before the authority showing the actual proof of service of the bills alleged to have been issued by the Gram Panchayat for alleged payment of taxes of the Gram Panchayat upon the petitioners and thus on this

ground alone, the disqualification of the petitioners under Section 14(1)(h) of the said Act was illegal.

REASONS AND CONCLUSIONS

31. It is not in dispute that the petitioners had certain properties within the jurisdiction of the Gram Panchayat, Village Takave Budruk, Taluka Maval, District Pune and had contested the election for the post of the said Gram Panchayat. It is also not in dispute that pursuant to the complaint filed by the respondent no.4 under section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958, both the petitioners have been disqualified on the ground that they were in arrears of the Gram Panchayat tax in respect of the properties held by them.

32. It is the case of the petitioners that none of the petitioners were served with a copy of the demand notices/ bills in respect of such alleged arrears of payment of Gram Panchayat taxes from the said Gram Panchayat whereas it is the case of the respondents on the other hand that the notice of demands/bills for the relevant years were served upon the petitioners and that the payment was not made by the petitioners in respect of those Gram Panchayat taxes before the date of the petitioners having been elected as member of the Gram Panchayat. In the alternate

submission, it is also the case of the respondents that in any event, the petitioners were fully aware of the arrears of such Gram Panchayat taxes and admittedly had cleared such arrears after the date of the petitioners having been elected as members of the said Gram Panchayat.

33. In view of the rival contentions raised by both the parties and more particularly on the issue as to whether the petitioners were served with the copy of the demand notices/bills for payment of Gram Panchayat taxes or not by the said Gram Panchayat and whether the petitioners were in arrears of payment of the said Gram Panchayat taxes before the petitioners having been elected as members of the said Gram Panchayat. This court shall now consider the documents produced by both the parties produced before the authorities below and also before this court and the findings rendered by both the authorities on this issue in the later part of this judgment.

34. It is not in dispute that the learned Collector had called for a report from the Chief Executive Officer of the Zilla Parishad after carrying out necessary enquiry in the said matter. Pursuant to the said directions issued by the learned Collector, the Chief Executive Officer of the Gram Panchayat had directed the Block Development Officer to

submit a report in the said complaint filed by the respondent no.4. The Block Development Officer had submitted a report on 30th January,2017 to the Chief Executive Officer of the Zilla Parishad. The Chief Executive Officer thereafter submitted a report on 17th March, 2017 to the learned Collector. The learned Collector however held that the petitioners could not be disqualified under the provisions of section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 on the ground of alleged default.

35. The learned Additional Divisional Commissioner however has taken into consideration various documents on record and have allowed the said appeals filed by the respondent no.4 and had disqualified the petitioners as members of the said Gram Panchayat under section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958.

36. A perusal of the record indicates that on 2nd August,2013, the Gram Panchayat had demanded taxes due from the petitioner no.1 for the financial year 2013-14. The said bill was served upon the husband of the petitioner on the same date. For the financial year 2014-15, the bill dated 5th June, 2015 was served upon the petitioner no.1. The petitioner had not disputed that the Gram Panchayat had prepared a list of defaulters in

making payment of the Gram Panchayat taxes. A list of such defaulters was produced before the Taluka Legal Aid Authority requesting to accept the pre-litigation petition in Lok Adalat to decide the case for defaulters on payment of Gram Panchayat taxes etc. The names of both the petitioners were shown in the said list of defaulters which was prepared much prior to the petitioners having contested the election for the post of Gram Panchayat. The said list was acknowledged by both the petitioners showing the arrears in their names.

37. It is also not in dispute that both the petitioners have made certain payments towards arrears of Gram Panchayat taxes i.e. the petitioner no.1 on 9th March,2016 and petitioner no.2 on 1st March,2016 whereas the election was admittedly held on 4th August,2015 and the petitioners were elected on 6th August,2015. It is not the case of the petitioners either before the authorities below or before this court that the petitioners were informed about such arrears of payment of Gram Panchayat taxes after the date of the petitioners having been elected as members of the said Gram Panchayat and only thereafter such payments were made by the petitioners to the said Gram Panchayat. None of the petitioners have disputed the said list of defaulters. There is no merit in the submission of the learned senior counsel for the petitioners that the

petitioners had disputed their signatures on the said list. It is not the case of the petitioners that the petitioners on their own cleared the alleged arrears of Gram Panchayat taxes which was not even payable by them and was wrongly paid by them.

38. In my view the learned senior counsel for the respondent no.4 and Mr.Kankal, learned A.G.P. for the respondent nos. 1, 2 and 5 are right in their submission that none of the petitioners have explained as to how they came to know about the arrears of taxes of Gram Panchayat before making payment to the said Gram Panchayat and that also much after the petitioners having been elected as members of the said Gram Panchayat.

39. The learned Additional Commissioner in my view has rightly relied upon the report submitted by the Block Development Officer Pathsanstha Mandal stating that the petitioners were served with the copy of the demand notices/bills for the relevant financial years and had not paid the said Gram Panchayat taxes to the Gram Panchayat. I am not inclined to accept the submission of the learned senior counsel for the petitioners that the learned Additional Divisional Commissioner did not consider the documents produced by the petitioners. The submissions of

the learned senior counsel for the petitioners that the respondents have failed to produce any proof of the demand notices/bills is devoid of merit and contrary to the documents produced on record. In view of the fact that the petitioners have subsequently paid the arrears of the Gram Panchayat taxes after having been elected, the petitioners cannot be allowed to urge that they were neither served with the bills or notice of demand nor were in arrears of payment of any Gram Panchayat taxes.

40. Section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 provides that no person shall be a member of a Panchayat or continue as such if he fails to pay any tax or fee due to the Panchayat at or the Zilla Parishad within three months from the date on which the amount of such tax or fee is demanded and a bill for the purpose is duly served on him. The documents produced on record by the respondents would clearly indicate that such bills were served upon the petitioners.

41. Be that as it may, the legislative intent is clear that such member must be made aware of demand of taxes or fees of the Gram Panchayat who shall clear such arrears of taxes or fees to the Gram Panchayat or Zilla Parishad as the case may be before contesting election. The documents produced by both the authorities clearly indicate that the

petitioners were also signatories to the register of arrears which was produced before the Taluka Legal Aid Authority. The said list was admittedly produced before the petitioners having been elected as members of the said Gram Panchayat. The petitioners did not clear the said arrears even within three months from the date of the petitioners name having been included in the said register and their signatures having been found in the said register acknowledging the said information. There is thus no merit in the submission of the learned senior counsel for the petitioners that the conditions setout in section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 were not satisfied in the facts of this case and thus the petitioners could not have been disqualified on that ground. The judgment of this court in case of ***Shaukat Ali Mohd. Hussain*** (supra) is clearly distinguishable in the facts of this case and would not assist the case of the petitioners.

42. A perusal of the order passed by the learned Additional Divisional Commissioner indicates that the learned Additional Divisional Commissioner considered the documents placed on record and the submissions of both the parties and has rendered various findings of facts which being not perverse cannot be interferred with by this court.

43. In my view the respondents have rightly processed in service explanation (2) to section 14(1)(h) of the Maharashtra Village Panchayat Act, 1958 which applies to the facts of this case. I do not find any infirmity in the order passed by the learned Additional Divisional Commissioner. The petition is devoid of merit.

44. I therefore pass the following order :-

(i) Writ Petition (St.) No.8677 of 2018 is dismissed.

(ii) Ad-interim order passed by this court on 21st March 2018 is vacated.

(iii) There shall be no order as to costs.

(iv) The parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.