

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4375 OF 2018

Raju s/o Laxman Shedmake
age 30 years, occ. Sarpanch
r/o Loni, Tq. Kinwat,
Dist. Nanded

Petitioner

Versus

1. The District Collector, Nanded
Tq. & Dist. Nanded.
2. Gram Sevak
Gram Panchayat Office,
Loni, Tq. Kinwat,
Dist. Nanded
3. Abhilash s/o Ambaji Gunjkar
Age major, occ. Agril.
r/o Loni, Tq. Kinwat,
Dist. Nanded

Respondent

Mr. R.V. Gore, Advocate for the petitioner.
Mrs. M.A. Deshpande, AGP for respondent no. 1.
Mr. P.B. Rakhunde, Advocate for respondent no. 3.

CORAM : M.S. KARNIK, J.
DATE : 20th August, 2019.

JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard finally at admission stage with the consent of learned counsel for the respective parties.
3. Order dated 23.03.2018 passed by the District Collector, Nanded, disqualifying the petitioner as a Sarpanch, is under

challenge.

4. The impugned order was passed by the Collector under Section 36 of the Maharashtra Village Panchayats Act (hereinafter referred to as 'the Act' for short) on account of failure on the part of the petitioner to convene the meeting of the Panchayat in accordance with the rules prescribed. By notice dated 15.06.2017, the Collector called upon the petitioner to attend hearing on 16.06.2017. The notice only indicates that the petitioner has not convened the monthly meeting and therefore, incurred disqualification. The impugned order is passed on the report of the Block Development Officer which is at page no. 44 of the paper book. The report of the Block Development Officer mentioned that the petitioner has failed to convene the meeting in November 2016. The Collector thereafter proceeded to pass the order.

5. It is the contention of learned counsel for the petitioner that the petitioner was not informed about the charges and he is entitled to know as to what are the charges levelled against him. According to the learned counsel the whole procedure conducted and the final order of the Collector is vitiated. He would rely upon the decision of this Court in the case of Pratibha Sanjay Hulle Vs. Additional Collector and others **reported in 2010(4) Bom.C.R. 700.**

6. Learned AGP supported the impugned order passed by the Collector. Learned counsel for respondent no. 3 would submit that the petitioner was very much present for hearing before the Collector and he was aware of what are the charges against him. He would further submit that even the petitioner was aware of the

report of the Block Development Officer. According to him, it is for the petitioner to show that he has conducted the monthly meetings and, on failure to conduct meeting, to show sufficient cause. The petitioner has failed to do so. He therefore submits that no interference is warranted in the impugned order. He moreover relies on the decision of this Court in the matter of Suvarna Prakash Patil Vs. Anil Hindurao Powar and others reported in **2004(1) Mh.L.J. 1062** to submit that the authority must make enquiry on his own to record satisfaction on issue of disqualification.

7. I have heard learned counsel for the respective parties. I have gone through the relevant annexures and the impugned order. There is no disputing ratio laid down by the Court in the case of Suvarna (Supra) relied by learned counsel for respondent no. 3. However, this Court has dealt with the issue as regards the complaint made which cannot be thrown out on the ground of technicalities. The fact situation in the present case is totally different and therefore, the said decision is not applicable to the facts of the present case.

8. In the present case, notice has been issued by Collector stating that on account of failure on the part of the petitioner to convene monthly meeting as required under Section 36 of the Act, the petitioner has incurred disqualification. Further more, the Collector has relied upon the report of the Block Development Officer in which it is stated that the monthly meeting was not convened in November 2016. In my opinion, proper opportunity ought to have been given by the Collector to the petitioner

informing him the specific default on his part so as to enable him to state sufficient cause in terms of Section 36 of the Act. The notice issued by the Collector is as vague as it can be. The impugned order therefore deserves to be quashed and set aside on this ground.

9. The matter is remitted back to the Collector. The Collector is free to issue appropriate notice under Section 36 of the Act and then proceed in accordance with law by giving proper opportunity to the petitioner. The Collector is requested to inquire into the complaint made by respondent no. 3 expeditiously. In any event, appropriate order may be passed within a period of four months from today.

10. Petition is allowed. Rule made absolute in above terms with no order as to costs.

(M.S. KARNIK, J.)

dyb/