

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8631 OF 2019
(Mathurabai Marotrao Jadhav Vs. The District Collector and others)

Mr.S.K.Kadam, Advocate for the petitioner.
Mr.N.T.Bhagat, AGP for respondent No.1.
Mr.V.D.Salunke, Advocate for respondent No.2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 17/07/2019

PER COURT :

1. Learned Advocate for the petitioner submits that all the respondents have been served by Advocate's' notice. Mr.Salunke, learned Advocate submits that he is appearing on behalf of respondent No.2. None appears for respondent No.3 Gramsevak. The petitioner, who is a directly elected Sarpanch of village Rui (Kh.), is aggrieved by the order of the District Collector dated 14/06/2019, by which the petitioner has been disqualified as a Sarpanch u/s 36 of the Maharashtra Village Panchayat Act.

2. The learned Advocate for the petitioner has strenuously criticized the impugned order. He submits that the petitioner is a lady Sarpanch, who has been directly elected. She is not well educated and can only sign. The Gram Sevak is the only person,

who could guide and assist her in the administration of the village Panchayat. Such villagers are not aware about the various monthly meetings that are required to be conducted. The Gramsevak educates the Sarpanch by pointing out the various monetary provisions with regard to holding of Gram Sabha, the monthly meetings and the compulsory meetings dated 26th January, 1st May and 15th August, etc.

3. He submits that the Gram Sevak namely Mr.Penewar alligned himself with a group led by respondent No.2. After his transfer, another Gram Sevak namely Mr.Jondhale did posted from 26/04/2018. Initially, Mr.Jondhale did not accept the charge of Gram Sevak from Mr.Penewar. Subsequently, he was compelled to take charge and since then he showed complete disinterest in the regular activities of the Gram Panchayat. He then alligned himself with the Up-Sarpanch and both connived in ensuring that the petitioner is kept in the dark and the monthly meetings are not conducted.

4. He, then, submits that after the transfer of Mr.Jondhale, another person namely Mr.Bondale took charge as the Gram Sevak. He was also showing his disinterest in the administration of the

Village Panchayat. After he was transferred, he was succeeded by Mr.Redewar as a Gram Sevak. It is in this backdrop that the petitioner was handicapped and became helpless and could not hold the monthly meetings.

5. Mr.Salunke, learned Advocate appearing on behalf of respondent No.2 submits that respondent No.2 is the original complainant who brought it to the notice of the Collector that the Sarpanch is not conducting monthly meetings as well as the Gram Sabha. Co-incidentally, he is the husband of the present Up-Sarpanch. The petitioner is exonerated of the charge of not holding the Gram Sabha. However, the District Collector has found that no monthly meeting was held from May 2018 till October 2018.

6. He further submits that the explanation tendered by the petitioner is not satisfactory. This Court has delivered a judgment holding that it is the Sarpanch, in the absence of the Sarpanch the Up-Sarpanch, who is exclusively responsible for not holding the monthly meetings, in the matter of Salimbi Mubarak Tamboli Vs. The State of Maharashtra and others in WP No.10956/2018, dated 12/03/2019 and Saundaji Namdev Sose Vs. The District Collector, Jalna in WP No.8336/2019 dated 16/07/2019.

7. The learned AGP submits that he would also rely upon the above referred 2 judgments delivered by this Court wherein it is held that the Sarpanch is exclusively responsible for conducting the monthly meetings and the Gram Sabha.

8. I find it appropriate to reproduce the conclusions drawn by this Court in the matter of Saundaji Namdev Sose Vs. The District Collector as under :-

“9 In view of the above, I find that the following two issues need adjudication:-

(a) Whether the Gramsevak is wholly and solely liable for conducting the monthly meetings or whether the responsibility lies on the Sarpanch and in his absence the Upasarpanch ?

(b) Whether negligence or laxity on the part of the Gramsevak in discharging his duties in the village Panchayat can be construed to be a justifiable reason for the failure on the part of the Sarpanch in holding grampanchayat monthly meetings ?

10 Section 36 along with the proviso reads as under:-

“ 36. Time and place of sitting of panchayat and procedure at meetings:- The time and place of sitting, and

the procedure at a meeting, of the panchayat shall be such as may be prescribed:

Provided that, if the Sarpanch, or in his absence the Upa-Sarpanch, fails without sufficient cause, to convene the meetings of the panchayat in any financial year according to the rules prescribed in that behalf, he shall be disqualified for continuing as Sarpanch or, as the case may be, Upa-Sarpanch or for being chosen as such for the remainder of the terms of office of the members of the Panchayat. The decision of the Collector on the question whether or not there was sufficient cause shall be final.

15 *The petitioner has, then canvassed that, Rule 4 of the Bombay Village Panchayats (Meeting) Rules, 1959 mandates that the Secretary, i.e. the Gramsavek should convene the meetings. As two successive Gramsevaks have been casual and negligent in performing their duties, action needs to be taken against the Secretary.*

16 *Rule 4 of the 1959 Rules reads as under:-*

“4. The Secretary shall, at least three clear days before the date fixed for any ordinary meeting, or for any meeting called under Sections 28, 33 or 43, send or cause to be sent to all the members intimation of the date, time and place of and the business to be transacted at such meeting. ”

17 *It is, therefore, apparent that, the only responsibility cast upon the*

Secretary is that, he would issue notices to the members of the panchayat, giving at least three clear days intimation to such members of the date which is fixed for an ordinary meeting or for any meeting under sections 28, 33 or 43. Section 28 is with regard to commencement of the term of office. Section 33 is with regard to the elections of Sarpanch and Upasarpanch and section 43 is with regard to filling-up of the vacancies. I am informed by the learned AGP that, considering Rule 4, the services of the Secretary of the Grampanchayat are normally utilized for issuing such notices of meeting and therefore, the petitioner has canvassed that it is only the Secretary who can convene the meeting. Such an argument is in contravention of the provisions of the Village Panchayat Act and out of ignorance.

18 *Rule 5(1) of the Rules of 1959 reads as under:-*

“5. (1) The Sarpanch or in his absence the Upa-Sarpancha, may, on his own motion, call a special meeting of the panchayat at any time or on the written requisition of not less than half the number of the members or of the (Standing Committee, Panchayat Samiti, or the Chief Executive Officer, or of any officer authorised in this behalf by the standing committee, or Panchayat Samiti or Chief Executive Officer) by a general or special order, shall call such special meeting within eight days from the date of the receipt of such requisition. ”

19 *It, therefore, appears, even under rule 5(1) that the Sarpanch or in his absence the Upa-sarpanch, on his own motion can call for a special meeting of the panchayat at any time or on written requisition of not less*

than half the number of members of the various committees. The intent and object of law, in the absence of a direct provision, would indicate that the Sarpanch is expected to be the responsible person for holding a meeting. Such interpretation can be made on the basis of Rule 3(1 & 2) which reads as under:-

“3. (1) Every panchayat shall meet at least once in every month. Subject to the provisions of these rules, the person presiding at such ordinary meeting may, at the ends of such meeting, in consultation with the majority of the members present, announce the date of the next ordinary meeting.

Provided that, the Sarpanch, or in his absence the Upa-Sarpanch may having regard to the exigencies of the situation, fix another date of such next ordinary meeting.

(2) The date of every special general meeting shall be fixed at the Sarpanch, or in his absence by the Upa-Sarpanch.”

20 *The 1959 Rules, therefore, mandate that every Panchayat shall meet at least once in each month. The person presiding over such ordinary meeting, may, at the end of such meeting, in consultation with the majority of the members present, announce the date of the next ordinary meeting. Provided that, the Sarpanch or in his absence the Upa-Sarpanch may, having regard to the exigencies of the situation, fix another date of such next ordinary meeting. In my view, if there is such an alteration in the date of the meeting, the Sarpanch can then utilise the services of the Secretary to issue notices for convening such meeting. It*

is, therefore, quite clear, considering Rule 3(2) that the entire responsibility of convening such ordinary meeting in each month shall be on the Sarpanch and in his absence Upa-sarpanch. No Sarpanch can therefore, shy away from such a responsibility.

21 As such, in so far as the first issue is concerned, and in view of no judicial pronouncement cited before me, holding a different view, the Sarpanch shall be the only person who shall be responsible for convening such monthly meetings.

22 In so far as the second issue of sufficiency of the reasons is concerned, I find an answer in the Judgment delivered by this Court in the matter of **Gunwantrao Yeshwantrao Deshmukh Vs. State of Maharashtra & another**, reported in (1982) AIR (Bom) 295. The Division Bench of this Court was considering the issue of failure on the part of the Sarpanch in convening the monthly meeting. Placing reliance upon another Judgment of the learned Division Bench in the matter of Special Civil Application No.2274/1965 with Special Civil Application No.11/66, delivered on 13.6.1966, it was concluded that Rule 3 casts a compulsory obligation in connection with holding at least one meeting of the village panchayat in every month. It was further concluded that the monthly meeting of the panchayat, under the above Rule, can be convened only by the Sarpanch and in his absence by the Upa-Sarpanch. The obligation under the Rule could, therefore, be discharged only by the action of convening the meeting of the panchayat, by the Sarpanch and in his absence, by the Upa-Sarpanch.

25 In view of the above, I find that the plea put forth by the petitioner

Sarpanch that she could not conduct the monthly meetings in August and November, 2017 due to the non-cooperation of the Gramsevak, cannot be said to be a cause sufficient to justify the failure to hold such meetings. As such, this petition being devoid of merit, is therefore, dismissed. Rule is discharged.”

9. Considering the law laid down, it is obvious that the Sarpanch is responsible for holding such meetings. In the absence of the Sarpanch, an Up-Sarpanch can hold such meetings and he is also equally responsible. In the matter of Saundaji Namdev Sose Vs. The District Collector, Jalna (supra), an Up-Sarpanch who was officiating as a Sarpanch had failed to hold 2 monthly meetings.

10. The learned Advocate for the petitioner has submitted that the reasons assigned by the petitioner may be considered. She being a lady Sarpanch and being semi-literate, such a person depends upon the assistance of an employee of the State like the Gram Sevak. Such agriculturists, who are Sarpanch and Up-Sarpanch, are not aware of the provisions under the Maharashtra Village Panchayat Act.

11. Though I find that the learned Advocate for the petitioner has strenuously made an attempt to convince me, the said submission

cannot be accepted for the reason that if due to some unforeseen circumstances, which are well explained, had the Sarpanch not held a meeting, such case could have been looked into. However, in the instant case, the Sarpanch has not held the monthly meetings in November 2017 and from May 2018 till August 2018 continuously. In this backdrop, I am unable to accept the contention of the petitioner.

12. An amendment to Section 7 of the Maharashtra Village Panchayat Act was introduced by the Maharashtra Act No.16 of 2012 w.e.f. 02/10/2012. Section 7(11) would indicate that the proceedings of every meeting of the Gram Sabha shall be prepared by the concerned Secretary of the Panchayat and in his absence, the proceedings shall be prepared by any Government, Semi-Government or Panchayat employee working in the village such as Teacher, Talathi or Anganwadi Sevika, as may be directed by the Sarpanch.

13. As such, this petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)