

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8389 OF 2018

Frain Khalil Shaikh

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. S.C. Bhosale, Advocate for the petitioner.

Mrs. P.V. Diggikar, AGP for respondents no. 1 and 2.

Mr. H.I. Pathan, Advocate for respondent no.4.

CORAM : M.S. KARNIK, J.

DATE : 7th August, 2019.

PER COURT :

1. Heard learned counsel for the petitioner, learned AGP for respondents no. 1 and 2 and, learned counsel for respondent no. 4. Respondent no. 3 is the Gram Sewak, who has been duly served.

2. The challenge raised in this petition is to an order dated 17.07.2018 passed by the Collector, Nanded, disqualifying the petitioner-Sarpanch under Sections 7 and 36 of the Maharashtra Village Panchayat Act, 1958. The main grievance of the petitioner is that the Collector, acting upon the complaint made by respondent no. 4 that the petitioner did not conduct mandatory monthly meetings and Gram Sabha as required under Section 7 of the Act, proceeded to issue notice dated 24.08.2017. By the said notice, petitioner was called upon to reply to the allegation that he has not conducted monthly meetings and Gram Sabha in

accordance with the provisions of Section 7 of the Act.

3. Learned counsel for the petitioner relies upon decision of this Court in the matter of Pratibha Sanjay Hulle Vs. Additional Collector & others reported in **2010(4) Bom.C.R.700** where a detailed procedure has been set out as to the manner in which an enquiry is to be held by the Collector. The present petition is squarely covered by the decision of this Court in the matter referred above.

4. Learned counsel for respondent no. 4 would support the order passed by the Collector. He would submit that there is ample material on record and, even the findings of the Collector would disclose that the mandatory provisions of Section 7 of the Act are not followed by the petitioner and hence, the Collector has rightly disqualified him.

5. I have gone through the records which were earlier called for. Since the procedure as set out by this Court for holding an enquiry having not been followed by the Collector, the impugned order calls for interference.

6. The order dated 17.07.2018 passed by the Collector, Nanded, is quashed and set aside. The Collector, Nanded, to conduct a fresh enquiry and pass an appropriate order in accordance with law. The parties are directed to remain present before the Collector on 26.08.2019 at 3.00 pm. The Collector, Nanded, is requested to decide the issue of disqualification within a period of sixty days from the date of appearance of the parties i.e. from 26.08.2019.

7. Writ petition is allowed in the above terms and accordingly stands disposed of.

(M.S. KARNIK, J.)

dyb/