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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.8815 OF 2016

1. Sow. Jyoti w/o Bhaskar Patil,
Age 35 years, Occ. Household,
R/o Dhabe, Tq. Muktainagar,
District Jalgaon.
2. Sow. Warabai w/o Baburao More,
Age 71 years, Occ. Household
R/o Dhabe, Tq. Muktainagar,
District Jalgaon.
3. Milind s/o Santosh Panpatil,
Age 28 years, Occ. Agriculture
R/o Dhabe, Tq. Muktainagar,
District Jalgaon.
4. Sow. Vandana w/o Narayan Patil,
Age 35 years, Occ. Household
R/o Dhabe, Tq. Muktainagar,
District Jalgaon.
5. Prakash s/o Babu More,
Age 52 years, Occ. Agriculture
R/o Dhabe, Tq. Muktainagar,
District Jalgaon.

... PETITIONERS

VERSUS

1. The Additional Commissioner,
Nasik Division, Nasik
2. The Additional Collector,
Jalgaon
3. Tahsildar & Presiding Officer,
Muktainagar, District Jalgaon

((2))

4. The Gramsevak,
Grampanchayat, Pimpripancham,
Tq. Muktainagar, District Jalgaon
5. Sow. Pratiksha w/o Ramdas Choudhari,
Age 24 years, Occ. Household,
R/o Pimpripancham,
Tq. Muktainagar, District Jalgaon
6. Atul s/o Ramdas Baviskar,
Age 29 years, Occ. Agriculture
R/o Pimpripancham,
Tq. Muktainagar, District Jalgaon
7. Gopal s/o Shravan Baviskar
Age 51 years, Occ. Agriculture,
R/o Pimpripancham,
Tq. Muktainagar, District Jalgaon
8. Sow. Chayabai w/o Ramesh Tayade,
Age 40 years, Occ. Household,
R/o Pimpripancham,
Tq. Muktainagar, District Jalgaon

... RESPONDENTS

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Shri Nitin R. Bhavar, Advocate for petitioners
Shri P.M. Kulkarni, A.G.P. for respondents No.1 to 3
Shri S.G. Rudrawar, Advocate for respondents No.5 to 8

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CORAM : R.G. AVACHAT, J.

Date of reserving judgment : 27th August, 2019
Date of pronouncing judgment : 9th September, 2019

J U D G M E N T :

. Heard learned counsel for the parties. Rule. Rule
made returnable forthwith and heard finally with the consent of

learned counsel for the parties.

2. The challenge in this petition is to the decision of the Additional Collector, Jalgaon, dated 16/12/2015 in Grampanchayat Dispute/ Application No.60/2015, and the decision of the Additional Commissioner, Nasik Division, Nasik in Grampanchayat Appeal No.1/2016, dated 18/5/2016. By the impugned orders, the Grampanchayat Dispute/ Application preferred by the petitioners herein came to be dismissed.

3. The facts necessary to decide the Writ Petition are as under :

There is a Grampanchayat, Pimpripancham, Taluka Muktainagar, District Jalgaon. It is a Group Grampanchayat, for villages, Pimpripancham and Dhabe. The Grampanchayat is constituted of nine members. The elections to the Grampanchayat were held in August 2015 for a term of five years (2015 to 2020).

4. A meeting for holding the elections for the post of Sarpanch and Upa-Sarpanch was scheduled for 26/9/2015 at 2.00 p.m. Just 15 minutes before the commencement of the meeting, a

group of villagers gathered outside the Grampanchayat Office and indulged in rioting. They kidnapped one of the members of the Grampanchayat, namely Prakash Babu More and threatened another member namely, Sau. Vandana Narayan Patil, and prevented both of them from voting in the elections to the post of Sarpanch and Upa-Sarpanch. As a result thereof, the candidates of a group in minority came to be elected.

5. Since the election did not take place in a free and fair atmosphere and it being a corrupt practice at the election, the same is stated to be liable to be set aside. The defeated candidates preferred application to the Tahsildar, requesting him to hold the elections afresh. The application was turned down. The petitioners, therefore, preferred a Grampanchayat Dispute before the Collector. After having been unsuccessful therein, an appeal came to be preferred to the Additional Commissioner, Nasik Division, Nasik. The appeal was dismissed. The petitioners are thus before this Court in Writ Petition.

6. Learned counsel Mr. Natin R. Bhavar, representing the petitioners herein, would submit that, the election to the post of Sarpanch and Upa-Sarpanch of the Group Grampanchayat did not

take place in fair and free atmosphere. Some of the villagers indulged in rioting a few minutes before commencement of the meeting for election to the post of Sarpanch and Upa-Sarpanch. Two of the members from the group forming majority in the Grampanchayat were kidnapped. Those members could not participate in the meeting. As a result, members from the Group in the minority came to be elected. The learned counsel took me through relevant documents and ultimately urged for allowing the Writ Petition.

7. The learned A.G.P. Mr. P.M. Kulkarni representing respondents No.1 to 3 and learned counsel Mr. S.G. Rudrawar, appearing for respondents No. 5 to 8 reiterated the reasons given by the Additional Collector and the Additional Commissioner for turning down the grievance of the petitioners. Both of them supported the impugned orders.

8. Group Grampanchayat for the villages Pimprincham and Dhabe is constituted of nine members. The elections to the Grampanchayat were held in August 2015 for a term of five years (2015 to 2020). The petitioners herein are five in number. They constitute one Group whereas the respondents No.5 to 8 are the

members of the rival group. They have been elected in the Grampanchayat elections held in August 2015.

9. A meeting for holding elections to the post of Sarpanch and Upa-Sarpanch was scheduled for 26/9/2015 at 2.00 p.m. The Tahsildar, Muktainagar had nominated one Awal Karkoon to preside over the meeting. Nominations for both the posts were to be filled in during 10.00 a.m. to 12.00 noon the same day. The petitioner No.1 and respondent No.5 filed their nomination papers for the post of Sarpanch, while petitioner No.3 and respondent No.7 filed their nominations for the post of Upa-Sarpanch.

10. Just 15 minutes before schedule of the election, a group of over 30 persons from the village stormed outside the office of Village Panchayat i.e. the venue of election. The group indulged in rioting. The rioters kidnapped one of the members of the Grampanchayat, namely Prakash Babu More, who is petitioner No.5. There is also on record a statement of Vandana Patil (petitioner No.4) to indicate that some of the rioters manhandled and threatened her with dire consequences if she participated in the election process.

11. Shri Rohan Khandagale, Sub-Inspector of Police attached to Muktainagar Police Station was the head of the police party, deputed to enforce law and order at and around the Grampanchayat Office. The P.S.I. along with police personnel and members of the Homeguards were in place. The F.I.R. has been lodged by none other than P.S.I. Rohan Khandagale. It has been alleged in the F.I.R. that, at about 1.45 p.m., a group of about 30 persons gathered outside the Grampanchayat Office. The group members indulged in stoning. Shri Prakash More (petitioner No.5) arrived for attending the meeting. Some of the rioters caught hold of him and took him away. The police personnel including the P.S.I. who were not spared by the rioters. They were also manhandled and subjected to stoning.

12. As stated above, there is a statement of Vandana Narayan Patil (petitioner No.4) to indicate that the rioters manhandled her and threatened to prevent her from participating in the election process. The F.I.R. was lodged immediately after the incident.

13. The record further indicates that, as a result of rioting committed by some of the villagers, the petitioners No.4 and 5

could not participate in the election process. As a result thereof, the group of petitioners was reduced to minority i.e. from 5 to 3. The Election Officer still went ahead with the programme of election and voting took place. The members of the Group in minority came to be returned to the post of Sarpanch and Upa-Sarpanch. The petitioner No.1 Sow. Jyoti Patil, who was contesting for the post of Sarpanch, on the same date at about 5.05 p.m., preferred an application to the Tahsildar to reschedule the elections. As her request was not paid heed to, the petitioners approached the Additional Collector, Jalgaon by preferring an election dispute and then moved the appeal before the Additional Commissioner against the decision of the Additional Collector.

14. I have perused the judgments/ decisions impugned in this petition. The Additional Collector observed that the petitioners failed to establish that, the two of its members were prevented from participating in the election process. While the Additional Commissioner has observed that, the crime was registered at about 1.45 p.m., the meeting for electing the Sarpanch and Upa-Sarpanch took place from 2.00 p.m. till 2.50 p.m. The grievance about election was made at about 5.00 p.m. on the same day. It appears that, the petitioners moved the concerned authorities

since they were defeated in the election. The election process passed off peacefully. The Additional Commissioner went on to endorse the reasons given by the Additional Collector for turning down the grievance of the petitioners.

15. Holding of elections in free and fair atmosphere is the soul of democracy. The petitioners are five in number. They formed one group. The rival group of respondents No.5 to 8 is in minority as against the petitioners. If the election to the post of Sarpanch and Upa-Sarpanch had taken place with participation of all the petitioners, their group would have bagged the position of Sarpanch and Upa-Sarpanch. Just 15 minutes before commencement of the meeting for the election to these two posts, some of the villagers indulged in rioting. One of the members of the group forming majority came to be kidnapped. The other member of the very group was prevented from participating in the election process as a result of the threats to her life. As such, the proceeding of the meeting held for election to the post of Sarpanch and Upa-Sarpanch did not take place in a free and fair manner. In this backdrop, the Additional Collector and the appellate authority, namely the Additional Commissioner should have upheld the contentions of the petitioners and directed to hold re-election to

these posts. Since the same has not been done, interference with the impugned orders is called for.

16. In the result, the petition succeeds. The same is allowed in terms of prayer clauses (B) and (C). Rule made absolute in above terms.

(R.G. AVACHAT)
JUDGE

fmp/-