

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.8257 OF 2019

Joep Khan Bismillah Khan
Dongaon, Mehkar, Dist. Buldhana ... Petitioner

-vs-

1. Divisional Commissioner,
Amravati and ors. ... Respondents.

Shri Anil Mardikar, Senior Advocate with Shri Ved R. Deshpande, Advocate for petitioner.

Shri H. D. Dube, Assistant Government Pleader for respondent Nos.1 to 3.

Shri P. A. Kadu, Advocate for respondent No.4.

CORAM : A.S.CHANDURKAR, J.

DATE : December 19, 2019

P.C.

Rule. Heard finally considering the short issue involved.

The orders passed on the application for amendment, the application seeking production of letter dated 02/06/2018 issued by the office of the Collector as well as the application seeking production of report dated 17/05/2018 submitted by the Secretary of the Gram Panchayat Dongaon are under challenge in this writ petition.

2. The petitioner has filed an appeal under Section 33(5) of the Maharashtra Village Panchayats Act, 1958. In that appeal he sought to amend the memorandum of appeal by adding paragraph 5A which pertains

to further grounds of challenge in addition to those raised in the memorandum of appeal. The Divisional Commissioner refused permission to amend the memorandum of appeal on the ground that the same was not necessary. The other two applications seeking production of the records were also rejected on the ground that it would amount to delaying the proceedings.

3. Heard Shri Anil Mardikar, learned Senior Advocate for the petitioner, Shri H. D. Dube, learned Assistant Government Pleader for respondent Nos.1 to 3 and Shri P. A. Kadu, learned counsel for the respondent No.4. Insofar as the amendment sought to the memorandum of appeal seeking to raise additional grounds vide paragraph 5A, it is seen that the same is based on the legal submissions of the petitioner in support of the appeal. Hence instead of amending the memorandum of appeal the petitioner is at liberty to raise such arguments in support of the appeal by referring to the contentions raised in paragraph 5A as proposed. The respondents are also at liberty to counter those arguments if any. Insofar as production of the relevant records is concerned, it is seen that the grounds of challenge raised by the petitioner are in the context of the report dated 17/05/2018 submitted by the Secretary as well as the communication dated 02/06/2018 issued by the office of the Collector. Proper adjudication of the appeal would be facilitated by production of these documents. Hence the

respondent No.1 in the appeal filed by the petitioner shall produce before the Additional Commissioner records of the proceedings pertaining to the communication dated 02/06/2018. Similarly the respondent No.3 in the appeal-Secretary shall produce the records of the communication dated 17/05/2018 on the next date of the proceedings before the Divisional Commissioner.

4. Shri Anil Mardikar, learned Senior Advocate for the petitioner on instructions submits that the petitioner does not intend to seek production of any further records/documents in the appeal.

5. In that view of the matter the order dated 09/10/2019 passed by the Divisional Commissioner is partly modified in the aforesaid terms. The parties undertake to appear before the Divisional Commissioner on 31/12/2019 which is the next date of the proceedings. The proceedings be decided by 15/01/2020 on their own merits and in accordance with law.

Rule is disposed of in aforesaid terms. No costs.

JUDGE