

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 WRIT PETITION NO.13656 OF 2017

SHAKUNTALA DIGAMBAR PULKANTHE
VERSUS
THE COLLECTOR, NANDED AND OTHERS

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Advocate for Petitioner : Mr. Deshmukh Umakant B.
AGP for Respondent-State : Mr. A. M. Phule
Advocate for Respondent No.3 : Mr. Pravin B. Rakhunde
Advocate for Respondent No.4 : Mr. Y. K. Bobade h/f
Mr. A. B. Shinde

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WITH
WRIT PETITION NO. 12694 OF 2017

LAXMIBAI MOTIRAM KONKE
VERSUS
THE COLLECTOR, NANDED AND OTHERS

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Advocate for Petitioner : Mr. Deshmukh Umakant B.
AGP for Respondent-State : Mr. A. M. Phule
Advocate for Respondent Nos.2 & 3 : Mr. S. D. Kotkar
Advocate for Respondent No.4 : Mr. S. B. Pulkundwar

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WITH
WRIT PETITION NO. 1258 OF 2019

PUSHPABAI BABAN BARSE
VERSUS
THE COLLECTOR, NANDED AND OTHERS

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Advocate for Petitioner : Mr. Deshmukh Umakant B.
AGP for Respondent-State : Mr. A. M. Phule
Advocate for Respondent No.2 : Mr. D. P. Munde
Advocate for Respondent No.4 : Mr. S. B. Pulkundwar

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WITH
WRIT PETITION NO. 3111 OF 2019

REKHA RAJESH DADAJWAR
VERSUS
THE COLLECTOR, NANDED AND OTHERS

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Advocate for Petitioner : Mr. Deshmukh Umakant B.
AGP for Respondent-State : Mr. A. M. Phule
Advocate for Respondent No.3 : Mr. S. B. Pulkundwar
Advocate for Respondent No.4 : Mr. Amol N. Patole

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WITH
WRIT PETITION NO. 3542 OF 2019

CHIMAJI SITARAM SHINDE
VERSUS
THE COLLECTOR, NANDED AND OTHERS

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Advocate for Petitioner : Mr. Deshmukh Umakant B.
AGP for Respondent-State : Mr. A. M. Phule
Advocate for Respondent No.3 : Mr. M. B. Sandanshiv
Advocate for Respondent No.4 : Mr. S. B. Pulkundwar

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WITH
WRIT PETITION NO. 3543 OF 2019

KALUBAI KISHANRAO SONKAMBALE
VERSUS
THE COLLECTOR, NANDED AND OTHERS

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Advocate for Petitioner : Mr. Deshmukh Umakant B.
AGP for Respondent-State : Mr. A. M. Phule
Advocate for Respondent No.3 : Mr. Amol N. Patole
Advocate for Respondent No.4 : Mr. S. B. Pulkundwar

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WITH
WRIT PETITION NO. 3549 OF 2019

LALITA YASHWANT ARJUNE
VERSUS
THE COLLECTOR, NANDED AND OTHERS

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Advocate for Petitioner : Mr. Deshmukh Umakant B.
AGP for Respondent-State : Mr. A. M. Phule
Advocate for Respondent No.3 : Mr. S. B. Pulkundwar
Advocate for Respondent No.4 : Mr. S. P. Urgunde

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CORAM : V. K. JADHAV, J.
DATED : 17th FEBRUARY, 2020

PER COURT:-

1. Writ Petition No. 12694 of 2017 be detached from the present group and it be placed for hearing on 16.03.2020.
2. The learned counsel for Petitioners by relying upon the ratio laid down by this Court in the cases of *Laxmibai Yadavrao Panchal Vs. The Additional Collector, Nanded and others*, decided in Writ Petition No.8668 of 2015 on 5th May, 2016 (Coram: Sunil P. Deshmukh, J.) and *Sunil Daulat Patil Vs. The State of Maharashtra and others*, decided in Writ Petition No.3419 of 2013 on 4th December, 2013 (Coram: S. S. Shinde, J.), submits that from the contents of notice, which has been issued to the Petitioners under Sections 7 and 36 of the Bombay Village Panchayat Act, it is manifest that there is no mention of any specific charges / points, which are required to be

answered by the Petitioners. The learned counsel submits that in the aforesaid cases, this Court by referring the ratio laid down in the case of *Pratibha Sanjay Hulle Vs. Additional Collector and others*, reported in, *2010 (4) Bom.C.R. 700*, observed that to enable the Sarpanch to raise proper defence and explain sufficient cause for his failure to perform any statutory function, he must be informed essentially as regards his failure meaning thereby he must be communicated the specific charges. The learned counsel submits that in view of the facts of the present case also, the inquiry and order passed by the Additional Collector stand vitiated for non-compliance of basic principles of natural justice.

3 The learned counsel for the original complainants submits that the impugned orders passed by the learned Collector/Additional Collector are proper, correct and legal. The petitioners have appeared in the disputes and filed their detail say. Thus, it is not the case that the petitioners were not knowing the charges levelled against them and after this, the learned Collector/Additional Collector has passed the impugned orders disqualifying the petitioners, on merits.

4 In view of the above submissions and in the light of the identical facts of the case, the writ petitions are allowed in terms of prayer clause (B) respectively, and the proceedings are sent back for

re-consideration to the Collector, Nanded / Additional Collector, Nanded with directions that the Collector, Nanded / Additional Collector, Nanded shall dispose of the aforesaid disputes in terms of the observations made as above afresh. Having regard to aforesaid, it is also directed that after the remand, the proceedings should be decided as expeditiously as possible preferably within a period of three months from today.

5. The learned counsel appearing for the respondent/complainant submits that during pendency of these Petitions, in Writ Petition No. 3549 of 2019, one Grampanchayat Member has been elected as Sarpanch. However, there is no reason to unsettle the said position since his election would be subject to the outcome of the present Writ Petition. By this order, now, the matter has been remanded, as such essentially his election as Sarpanch during pendency of this Writ Petition would be subject to the conclusion of the proceedings before the Collector.

6. The Writ petitions are accordingly, disposed of.

(V. K. JADHAV, J.)