

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 8009 OF 2017

Abdul Rajik s/o Sheikh Harun

vs.

The Additional Collector, Amravati and others

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. A. D. Girdekar, counsel for petitioner.
Shri. S. B. Bissa, AGP for respondent No.1.
Shri. M. I. Dhatri, counsel for respondent No.2.
Shri. S. A. Sahu, counsel for respondent No.3.

CORAM : MANISH PITALE J.

DATED : 10/01/2020

By this writ petition the petitioner, who is a member of Gram Panchayat, Talegaon Mohana, Tahsil Chandur Bazar, District Amravati, has challenged order dated 20/09/2017 passed by the respondent No.1 Additional Collector, Amravati, whereby the application filed by the petitioner for disqualification of respondent No.2, Sarpanch of the said Gram Panchayat, has been rejected.

2. The petitioner had filed an application seeking action of disqualification against respondent No.2 under Section 7(1) of the Maharashtra Village Panchayat Act, 1959, alleging that at least 04 meetings for the financial year 2015-16 were not conducted by respondent No.2 as Sarpanch of the Gram Panchayat, thereby entailing disqualification. According to the said provision, respondent No.2 was required to hold at least 04 meetings of Gram Sabha for the said financial year.

3. On the application filed by the petitioner, the respondent No.1 called for a report of the Secretary of the Gram Panchayat. A report dated 29/05/2017 was submitted by the Secretary of the Gram Panchayat before the respondent No.1, Additional Collector, giving details of the meetings of the Gram Sabha conducted in the financial year 2015-16. The original record was also placed before the respondent No.1 for perusal.

4. Upon perusal of the report of the Secretary of Gram Panchayat and the original record, the respondent No.1 found that meetings of the Gram Sabha were held on 13/05/2015, 28/05/2015, 22/07/2015, 15/08/2015, 15/10/2015, 26/11/2015 and 09/02/2016, in the financial year 2015-16. On this basis the respondent No.1 came to the conclusion that respondent No.2 as Sarpanch of the Gram Panchayat had not attracted disqualification under Section 7(1) of the aforesaid Act.

5. In order to support the contentions raised in the present writ petition, the learned counsel appearing for the petitioner invited attention of this Court to Annexure – A to the writ petitioner, which consists of copies of the proceedings regarding the aforesaid meetings of the Gram Sabha. It is contended that at some places signatures of the petitioner and the Secretary of the Gram Panchayat are missing, thereby indicating that material to support holding of meetings on particular dates was not placed on record. The learned counsel also invited attention of this Court to Government Resolution dated 25/06/2014, which lays down the manner in which the meetings of the Gram Sabha are expected to be conducted.

According to the learned counsel for the petitioner, the respondent No.2 failed to adhere to the requirements of the said Resolution further indicating that he deserved to be disqualified under Section 7(1) of the aforesaid Act.

6. On the other hand the learned counsel for the contesting respondent No.2 submits that the original record was placed before the respondent No.1 Additional Collector, sufficiently demonstrating compliance of the requirement of Section 7(1) of holding at least 04 meetings in a financial year and that therefore, no error could be attributed to the impugned order.

7. Having heard learned counsel for the rival parties and upon perusal of the material on record, it becomes evident that while passing the impugned order, the respondent No.1 Additional Collector took into consideration the original record placed before him. The report of the Secretary of the Gram Panchayat dated 29/05/2017 clearly stated details about the dates of 04 meetings that were conducted and the subject matter that was discussed.

8. The contentions raised on behalf of the petitioner regarding absence of signatures at some places in the proceedings book, do not create a ground for interference with the impugned order by respondent No.1. Even if there has been absence of signatures at some places in the proceeding books, it is not even alleged against respondent No.2 that fabricated record was created or that post facto material was prepared to get over the ground for disqualification specified in Section 7(1)

of the said Act. In so far as compliance with requirements of Government Resolution dated 25/06/2014 are concerned, the aforesaid provision under section 7(1) of the Act does not mandate that if any directions given by the Government from time to time regarding the manner in which the meetings of Gram Sabha are to be conducted are violated, it would invite disqualification under the said provision. Therefore, there does not appear to be much substance in the contentions raised on behalf of the petitioner. The learned counsel for the respondent No.2 is justified in relying upon the judgment of this Court in the case of Vilas s/o. Sanjay Pawar vs. Pandharinath s/o. Tukaram Kotsulwar and others 2009 (1) ALL MR 168, wherein this Court deprecated the technical approach adopted by Additional Collector while passing an order of disqualification against elected Sarpanch of the Gram Panchayat. In this case also the material on the basis of which the petitioner claimed that there has been violation of Section 7(1) of the Act, is too technical and such an approach can not be adopted for non-seating a person who has been elected through democratic process as Sarpanch of the Gram Panchayat.

9. In view of the above, there is no substance in the present writ petition. Accordingly, it is dismissed. No order as to costs.

JUDGE