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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4807 OF 2020

Shobhabai w/o Devidas Chavan
Age – 53 years, Occ – Household
R/o Kawada, Taluka – Jintur
District - Parbhani

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai

RESPONDENTS

2. The District Collector,
Parbhani, District – Parbhani

3. Rajesh s/o Sakharam Chavan
Age – 41 years, Occ – Agri.
R/o Kawada, Taluka – Jintur
District – Parbhani

4. Grampanchayat, Kawada
Taluka – Jintur, District -Parbhani
Through its Village Development Officer

5. Wakale Madam
Gram Sevika, Grampanchayat Kawada,
Taluka – Jintur, District – Parbhani

6. Vidya Gaikwad
The then Gramsevika, Grampanchayat Kawada
Taluka – Jintur, District – Parbhani
At present Jamb (Kh) Taluka – Jintur
District – Parbhani

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Mr. S. S. Thombre, Advocate for the petitioner
Mrs. V. S. Chaudhari, AGP for respondent - State
Mr. N. R. Pawde, Advocate for respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

RESERVED ON : 24th NOVEMBER, 2021

PRONOUNCED ON : 2nd DECEMBER, 2021

JUDGMENT:

1. Rule. Rule made returnable forthwith and heard finally with the consent of learned advocates for the appearing parties.
2. This petition challenges order dated 30th June, 2020 passed by Collector, Parbhani in File No. 2019/VPE/GAD/CR-20 thereby disqualifying the petitioner from the post of *Sarpanch*.
3. The petitioner was elected as *Sarpanch* of village Kawada, Taluka – Jintur, Distrit – Parbhani on 24th March, 2019. Respondent No. 3, on 15th November, 2019 filed an application before the Collector, Parbhani under sections 7 and 36 of the Maharashtra Village Panchayat Act, 1958 (for short “the said Act”) alleging that the petitioner has incurred disqualification on account of non holding of four meetings of *Gram Sambha* in the financial year 2019-20 and 12 monthly meetings as mandated under sections 7 and 36 of the said Act.
4. Pursuant to application of respondent No. 3, a notice dated 20th November, 2019 was issued to the petitioner intimating that since the petitioner has not conducted meetings of *Gram Sabha*,

in terms of sections 7 and 36 of the said Act, respondent No. 3 has sought her disqualification and hence the petitioner was called upon to appear before the Collector, Parbhani on 28th November, 2019. The petitioner accordingly appeared and submitted her say as well as written arguments.

The Collector, by order dated 30th June, 2020, disqualified the petitioner from continuing as *Sarpanch* of gram panchayat Kawada for the remaining term of office. This order is impugned in the present writ petition.

5. Heard learned advocate for the petitioner, learned Assistant Government Pleader for respondents No. 1 and 2 and learned advocate for respondent No. 3. Perused the record.

6. Learned advocate for the petitioner vehemently submitted that the complaint against the petitioner has been filed by respondent No. 3, before completion of the financial year, which ought not to have been entertained by the Collector. He submitted that the financial year starts from 1st April to 31st March and the complaint in question was filed on 15th November, 2019, therefore, the same should not have been entertained. He further submitted that the Additional Collector ought to have framed charges against the petitioner and should have called

upon her to answer the charges and since the same is not done, the impugned order is vitiated. He submitted that no specific charges are mentioned in the notice issued to the petitioner by the Collector. He, thus, submitted that the impugned order is unsustainable and the same is liable to be quashed and set aside. In support of the submissions, he relied on a decision of this court in the case of ***"Pratibha Sanjay Hulle V/s Additional Collector and Others"* 2010 (4) Bom. C.R. 700**. He further submitted that the Collector has not framed proper questions for consideration and on that ground also the impugned order is vitiated and is liable to be quashed and set aside. He submitted that the first meeting of the *Gram Sabha* was held on 28th May, 2019 and the second was held on 15th August, 2019 and thereafter, the complaint seeking disqualification of the petitioner was filed in the month of November, 2019. He further submitted that seven monthly meetings were conducted and the Collector ought to have taken into consideration the number of meetings held till filing of the complaint. He further submitted that since record of the Gram panchayat was attached, the further meetings of *Gram Sabha* could not be conducted.

7. On the other hand, the learned advocate for respondent No. 3, by placing reliance on circular dated 30th September, 2000

issued by the State Government, submitted that the four meetings of *Gram Sabha* to be held are mentioned in this circular and meetings to be held on 1st May and 2nd October were not held by the petitioner. By relying on section 7 of the said Act, he submitted that on account of non holding of any of such four meetings of *Gram Sabha*, disqualification is incurred, since the petitioner has failed to conduct meetings of *Gram Sabha* on 1st May and 2nd October, the petitioner is rightly disqualified by the Collector. By pointing out notice issued to the petitioner, he submitted that the notice discloses charge levelled against the petitioner and the petitioner in her say filed to the complaint has defended said charge. According to learned advocate, the findings recorded by the Collector are based on record and there is no merit in the writ petition and the writ petition is liable to be dismissed.

Learned advocate, in support of his submissions, relied on a decision of this court in writ petition No. 11933 of 2015 dated 1st September, 2016 (***"Pralhad Bhikaji Bargaje V/s The State of Maharashtra and Others"***)

8. Learned Assistant Government Pleader adopted the arguments of respondent No. 3 and supported the impugned order.

9. Government Circular dated 30th September, 2000 lays down the dates on which four meetings of *Gram Sabha* should be held i.e. 26th January,, 1st May, 15th August and 2nd October. If *Sarpanch* or in his absence *Upasarpanch* fails, without any sufficient cause, to hold any of such meeting of *Gram Sabha*, he is liable to be disqualified for continuing as *Sarpanch* or *Upasarpanch* as the case may be.

10. Relevant portion of section 7 of the said Act is reproduced herein below:

7. Meetings of Gram Sabha.-(1) *There shall be held at least four meetings of the Gram Sabha every financial year on such date, at such time and place, and in such manner, as may be prescribed and if the Sarpanch or in his absence the Upa-Sarpanch fails without sufficient cause to hold any of such four meetings, he shall be disqualified for continuing as Sarpanch, or as the case may be, Upa-Sarpanch or for being chosen as such for the remainder of the term of office of the members of the Panchayat; and the Secretary of the Panchayat shall also if, prima facie, found responsible of any lapse in convening such meeting, be liable to be suspended, and for being proceeded against, for such other disciplinary action as provided under the relevant rules. The decision of the Collector on the question whether or not there was such sufficient cause shall be final.*

Provided that, the Sarpanch may, at any time of his own motion, and, shall, on requisition of the Standing Committee, Panchayat Samiti, or Chief Executive Officer, call a meeting of the Gram Sabha within the period specified in the requisition; and, on failure to do so, the Chief Executive Officer shall require the Block Development Officer to call the meeting within fifteen days from the date he is so required to do. The meeting shall, notwithstanding the provisions of sub section (3), be presided over by him or any officer authorized by the Block Development Officer, in that behalf.

Provided further that, a period of not more than four months shall be allowed to elapse between the two meetings of the Gram Sabha;

Provided also that, if the Sarpanch or Upa Sarpanch, as the case may be, fails to call any such meeting within the specified period, the Secretary shall call the meeting and it shall be presumed that such meeting has been called with the concurrence of the Sarpanch or, as the case may be, Upa Sarpanch."

11. Thus, section 7 of the said Act mandates that at least four meetings of *Gram Sabhas* should be held every financial year and if the *Sarpancha* or *Upasarpanch* as the case may be, fails, without sufficient cause, to hold any of such four meetings of *Gram Sabha*, he shall be disqualified for continuing in the office

or being chosen as such for the remainder of the term. Proviso to section 7 of the said Act further provides that a period of not more than four months shall be allowed to be lapsed between the two meetings of *Gram Sabha*.

12. It is clear from the record that in the financial year, 2019-20 only two meetings of *Gram Sabha* were held i.e. on 28th May, 2019 and on 15th August, 2019. Thus, mandatory meetings of *Gram Sabha*, which are required to be held on 1st May, 2019 and 2nd October, 2019 were not held/conducted by the petitioner. Since the disqualification is incurred if *Sarpanch* or *Upasarpanch* fails to conduct any of the four meetings of *Gram Sabha*, the petitioner was rightly disqualified by the Collector for not holding said two meetings of *Gram Sabha*.

13. Apart from the above, the Collector has also recorded a finding that out of twelve monthly meetings, in the financial year, 2019-20, only seven monthly meetings were held. The decision is rendered by the Collector on 30th June, 2020 till that time twelve monthly meetings ought to have been held, however, only seven monthly meetings were conducted. The Collector was, therefore, justified in coming to the conclusion that the petitioner has failed to conduct twelve monthly meetings in the financial year 2019-20.

14. In *Pratibha Sanjay Hulle* (*supra*) relied on by the petitioner, Co-ordinate bench of this court has held that order of disqualification of the petitioner therein is vitiated as neither proper notice of inquiry nor copy of the complaint was served on the petitioner and the notice issued by the Collector also did not disclose charges, which caused prejudice to the petitioner, as the petitioner was handicapped in tendering her reply as no charges were indicated by the Collector.

15. In the case in hand, in the notice issued by the collector on 20th November, 2019, it was specifically mentioned that respondent No.3 has submitted an application claiming that since the petitioner has failed to conduct the meetings of *Gram Sabha*, she should be disqualified under sections 7 and 36 of the said Act. It is not the argument of the petitioner that the copy of complaint was not served upon her. Thus, the charge was sufficiently disclosed to the petitioner and the petitioner has replied to the said charge by her detailed say (Exhibit-D), therefore, this ruling does not help the petitioner.

16. In the light of specific charges mentioned in the notice dated 20th November, 2019 and the reply given by the petitioner to the said notice, it can safely be held that sufficient opportunity

is given to the petitioner.

17. The petitioner has failed to give sufficient cause for not conducting two mandatory meetings of the *Gram Sabha* on 1st May and 2nd October in the year 2019. It is also a matter of record that the petitioner has failed to conduct twelve monthly meetings and has conducted only seven monthly meetings in a financial year.

18. In view of the aforestated reasons, the Collector was justified in disqualifying the petitioner. The impugned order is a well reasoned order and the petitioner has failed to make out any case to cause interference in the said order, in extra ordinary writ jurisdiction of this court.

19. As such, the petition, being devoid of any substance, is dismissed. Rule stands discharged. There shall be no order as to costs.

20. At this stage, learned advocate for the petitioner requested for continuation of interim relief, so as to enable the petitioner to approach the Hon'ble Apex Court. Interim relief granted earlier to continue for further period of eight weeks from today.

[NITIN B. SURYAWANSHI, J.]