IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6863 OF 2021

Shantaram Chandra Sonwane	Petitioner
Versus	
The Additional Commissioner & others	Respondents

Mr.V.D.Hon, Senior Counsel i/by Mr.A.V.Hon, advocate for the petitioner.
Mr.K.B.Jadhavar, AGP for Respondents No.1 & 2.
Mr.Jitendra Patil, advocate for Respondent No.3.

CORAM : AVINASH G. GHAROTE, J.

DATE : 07th July, 2021.

PC :

1 Heard Mr.Hon, learned Senior Counsel for the petitioner, who takes exception to the order dated 06.05.2021, passed by Respondent No.1, whereby the order of the Collector dated 10.02.2021, has been quashed and set aside and the matter has been remanded back for fresh inquiry.

2 It is material to note that in 2018, elections to Gram Panchayat Nandgaon had been held, in which Respondent no.3 was elected as a Sarpanch. The term of the Gram Panchayat was for a period of five years. It is contended by learned Senior

Counsel that on 01.07.2019, a notice for payment of taxes was served upon Respondent no.3 and as the same was not paid within a period of 90 days, he incurred a disqualification under Section 14(1)(h) of the Maharashtra Village Panchayats Act. Upon same being challenged before the Collector, a report was called by the Collector from the BDO who had submitted his report on 15.02.2020, whereby it was indicated, that the taxes were paid by Respondent No.3 after a period of 218 days and not within 90 days of the service of the notice, as required by law. The Collector, by his order dated 10.02.2021, accepted the appeal in part and disqualified Respondent No.3. Respondent No.3 preferred an appeal before the Respondent No.1, who has allowed the same and remanded the matter after quashing the order of the Collector.

3 Taking exception to the order of remand, learned Senior Counsel Mr.Hon contends that the remand was not justified, as the report of the BDO reflected that the payment was not made within time, as prescribed, but was delayed and, therefore, this being the position, the remand was improper.

4 Mr. Patil, learned Counsel for Respondent No.3, invites my attention to the notice of demand dated 01.07.2019 and

contends, that though all the notices of demand from page 75 to page 280 are dated 01.07.2019, they, in fact, have been issued on several dates later on, for which he invites my attention to page 169 which shows the receipt of the notice on 20.11.2019, page nos. 184/209/214 – which show the receipt of the notice on 20.11.2019. He further invites my attention to the fact that most of these notices do not bear the date of receipt. It is his contention that the notice, in question, was received by his father on 10.11.2019 and the payment of the taxes was made by him on 31.10.2019 and 03.02.2019, which was within a period of 90 days from the date of receipt. He further invites my attention to the receipt placed on record at page 282, which is the receipt bearing no.3227 and is dated 05.11.2019 as well as the receipt at page 283, which also bears no.3227 and is dated 31.10.2019, both of which are in respect of House No.101 belonging to Respondent No.3, which receipts form part and parcel of the report of the Gram Sevak. Similar is the position in respect of receipts no.5827, both of which are at page 291 and 292, in respect of House No.101. He, therefore, submits that the duplication of the receipts is a matter to be investigated by the appropriate authority, so also the question of date of receipt of the demand-bill by Respondent No.3. He, therefore, justifies the order of remand passed by Respondent No.1.

5 It is apparent, that Respondent No.3 is being sought to be deprived of his right accrued to him due to the election to act as a Sarpanch of Gram Panchayat Nandgaon. Any such deprivation, cannot be for mere sake of asking, but has to comply with the requirement of law which, in this case, is the provision of Section 14(1)(h) of the Maharashtra Village Panchayats Act. Any finding rendered, if it is open to dispute, which has a material bearing upon the decision to disqualify Respondent No.3, would not satisfy the touchstone of law as applicable for the same.

6 In the instant case, admittedly there are multiple receipts of payment, as indicated above in respect of the same property, of different dates. That apart, as rightly pointed out by Mr. Patil, learned Counsel for Respondent No.3, though the Collector had directed the BDO to make an inquiry and submit a report, the BDO himself did not do so but in turn, directed the Gram Sevak, Gram Panchayat, Nandgaon to prepare a report and on the basis of the report of the Gram Sevak, the BDO prepared his own report and submitted the same to the Collector. The report of the Gram Sevak, which is placed at page 281 of the record, shows that it is based upon duplicate receipts of payment

of taxes of different dates for the same property, which makes the entire report of the Gram Sevak suspect in the eyes of law. This being the position, Respondent No.1 has correctly remanded the matter back to the Collector for further inquiry in the matter, which cannot be faulted with.

7 Instant Writ Petition is, therefore, without any merit and the same is accordingly dismissed. Needless to say that the Collector / Respondent No.2 shall endeavour to decide the proceedings before him as expeditiously as possible and in any case, within a period of six months from the date of receipt of this order.

(AVINASH G. GHAROTE)
JUDGE

adb