

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

950 WRIT PETITION NO.7151 OF 2021

GANGABAI GANGARAM NIMALWAR
VERSUS
THE COLLECTOR AND OTHERS

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Mr. Amey Sabnis, Advocate holding for
Mr. V.D. Gunale, Advocate for the petitioner.
Mr. K.B. Jadhavar, A.G.P. for respondent No. 1.
Mr. S.B. Pulkundwar, Advocate for respondent No. 2.
Mr. P.B. Rakhunde, Advocate for respondent No.4.

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CORAM : **AVINASH G. GHAROTE, J.**

DATE : 05.08.2021.

ORDER :

1. Heard Mr. Sabnis, learned Counsel holding for Mr. Gunale, for the petitioner, learned A.G.P. for respondent No. 1, Mr. Pulkundwar, learned Counsel for respondent No. 2 and Mr. Rakhunde, learned Counsel for respondent No. 4. Respondent No.3 is served, however none appears.

2. The moot question involved, is the disqualification of the petitioner, on account of not holding the meetings for the month of June, July and August 2020, of the Grampanchayat Galegaon, Taluka Biloli, District Nanded. On an appeal filed by respondent No.4 the petitioner, had appeared and filed her submissions, in which, it was contended, that the meetings of the Grampanchayat were held till 05.06.2020 and the complaint in this regard was false. It is surprising to note, that no reason, or cause was shown, for not

holding the meetings for the month of July and August 2020, as no such averment appears to have been made in the reply submitted by the petitioner, before the respondent No. 1.

3. Respondent No.1, called for the report from the respondent No. 2, who upon examining the attendance register, the register of the meetings and other relevant record, submitted a report, that three meetings for the month of June, July and August 2020 were not taken by the petitioner. In absence of any reason or cause, given by the petitioner, the respondent No. 1, held the petitioner disqualified, in view of the proviso to Section 36 of the Maharashtra Village Panchayat Act.

4. It is an admitted position on record, as reflected from the reply of the petitioner, that the meetings for the month of July and August 2020 were not taken by her. Even in respect of the meeting for the month of June 2020, the submission of Mr. Pulkundwar, learned Counsel for respondent No. 2, is that the said meeting was not taken by the petitioner but was taken by Up-Sarpanch. In view of the language of the proviso to Section 36 of the Maharashtra Village Panchayat Act, the meeting has to be conducted by the Sarpanch and in his absence by the Up-Sarpanch. Thus, in so far as the meeting for the month of June 2020, is concerned, since the meeting was conducted by the Up-Sarpanch, the plea of absence of holding the meeting, would not be tenable. That leaves us with the meetings for the months of July and August 2020. In view of the reply as submitted by the petitioner before respondent No. 1 which is

dated 15.12.2020, and the report of the BDO, and perusal of the register of meetings as placed before me, it is evident that no meetings have been taken by the petitioner, which clearly indicates a violation of the requirement of the proviso to Section 36 of the Maharashtra Village Panchayat Act, 1963. It is further material to note, that in her reply, dated 15.12.2020, it was open and permissible for the petitioner, to have shown sufficient cause within the meaning of the expression as contained in the proviso to Section 36 of the Maharashtra Village Panchayat Act, however, the reply dated 15.12.2020 does not contain even a whisper about the same. That being the position, the petitioner, cannot avoid the consequences as sought to be visited upon her by virtue of the proviso to Section 36 of the Maharashtra Village Panchayat Act. The reliance by Mr. Rakhunde, learned Counsel for respondent No.4 on ***Gunwantrao Yashwantrao Deshmukh vs State of Maharashtra and another, AIR 1982 Bombay 295*** is well placed.

5. The submission of Mr. Sabnis, learned Counsel for the petitioner, by relying upon the notifications imposing the lock down as issued by the Collector and the State of Maharashtra from time to time, does not assist him for the reason that the lock down was imposed w.e.f. 24th March 2020, which continued from time to time thereafter. However that did not prevent petitioner from holding the meetings for the months of March, April and May 2020 and for the Up-Sarpanch to hold the meeting in the month of June 2020 which were so held. The submission therefore is clearly misplaced and

cannot be accepted as a cause for not holding the meetings for the month of July and August. That apart, this was never the plea, raised by the petitioner in her reply before the respondent No. 1 to contend that this constituted a sufficient cause.

6. In view of the above, I do not see any merit in the petition. The same is, therefore, dismissed. In the circumstances, there shall be no order as to costs.

(AVINASH G. GHAROTE, J.)

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