

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 228 OF 2021

Chaitanya Raosaheb More,
Age Major, Occ. Agriculture,
R/o. Sonkhed, Tq. Loha, Dist.
Nanded.

... **Petitioner.**

VERSUS

- 1) The Collector,
Nanded, Dist. Nanded.
- 2) Village Development Officer,
Age Major, occ. Service,
Gram Panchayat Office, Sonkhed,
Tq. Loha, Dist. Nanded.
- 3) Achyut Shankarrao More,
Age Major, Occ. Agriculture and
Sarpanch of village Panchayat
R/o. Sonkhed Tq. Loha, Dist.
Nanded.
- 4) Block Development Officer,
Panchayat Samiti, Loha,
Dist. Nanded.

... **Respondents.**

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Advocate for the Petitioner : Mr. Deshmukh Umakant B.
A.G.P. for te Respondent Nos. 1 & 2 : Mr. K. B. Jadhavar.
Advocate for Respondent No. 3 : Mr. D.P. Munde.
Advocate for Respondent No. 4 : Mr. T.S. Lodhe h/f Yogita Thorat.

CORAM : MANGESH S. PATIL, J.
DATE : 09.12.2021.

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. At the request of the parties the matter is heard finally at the stage of admission.

2. The petitioner is aggrieved by the judgment and order passed by the respondent No. 1-Collector in a proceeding under Section 7 read with Section 36 of the Maharashtra Village Panchayat Act, 1958 (hereinafter 'the Act') whereby his complaint about the respondent No. 3 Sarpanch having incurred disqualification for not holding Gram Sabhas and monthly meetings has been dismissed.

3. I have carefully considered the submissions and the papers. The petitioner in his complaint (Exh. 'A') *inter alia* specifically alleged about failure of the respondent No. 3-Sarpanch to hold Gram Sabhas and monthly meetings in accordance with the provisions of the Act and the Bombay Village Panchayats (Meetings) Rules, 1959 (hereinafter 'the Meeting Rules'). In paragraph No. 3 of the complaint it was specifically alleged that though it was incumbent for the respondent No. 3 to convene four Gram Sabhas in a financial year, firstly within two months of commencement of the financial year, second on 15th of August, third in the month of November and on 26th of January, such meetings were not held.

4. It appears that pursuant to a notice the respondent No. 3 filed his written statement-cum-arguments (Exh. 'C'). He tried to take shelter of the report submitted by the Block Development Officer to the Collector dated 20.02.2020 (Exh. 'B') and flatly denied to have failed to hold Gram Sabhas and the monthly meetings in tune with the provisions of Section 7 of the Act and the Meeting Rules.

5. Referring to the report of the Block Development Officer, the respondent No. 1-Collector has recorded an observation to the effect that the respondent No. 3 was elected on 18.11.2017 and he was expected to hold one Gram Sabha but he had held two Gram Sabhas in the financial year 2017-2018. As far as the financial year 2018-2019 is concerned, he records an observation that during that financial year the respondent No. 3 was supposed to convene three Gram Sabhas but had held four such Gram

Sabhas. In respect of the financial year 2019-2020 he observes that till the filing of the proceeding the respondent No. 3 was supposed to hold two Gram Sabhas and he has held those two meetings.

6. Conspicuously, though the learned Collector has recorded an observation to the effect that there could possibly be an explanation for not holding the meetings on the prescribed dates or months like agricultural operations, bereavement etc., relying upon the decision of this Court in the case of **Vilas s/o Sanjay Pawar Vs. Pandharinath s/o Pandharinath Tukaram Kotsulwar and others; 2009(1) Mh.L.J. 316** the learned Collector seems to have completely overlooked the fact that written statement filed by the respondent No. 3-Sarpanch did not contain any such explanation. It is therefore quite apparent that even when the report of the Block Development Officer relied upon by the learned Collector as also the written statement filed by the respondent No. 3-Sarpanch did not contain even an iota of explanation, for not holding Gram Sabhas on the required dates/months, the learned Collector has proceeded to record such an observation which is nothing but a perverse and arbitrary observation based on conjectures and surmises.

7. When the Collector was supposed to exercise the quasi judicial powers it was expected of him to have been more vigilant in examining all the facts and circumstances. Instead, he seems to have vaguely observed, depending upon the number of meetings that though the meetings were not convened in the prescribed month or day, those were held around the same time. This observation has the tendency of overlooking the statutory provision contained in Section 7 of the Act, Rule 3 of the Meeting Rules as also the Government Resolution dated 30.09.2000 issued under the Act as regards holding of meetings under Section 7 of the Act.

8. In view of such state of affairs, in my considered view, the order under challenge is not sustainable in law and the matter needs to be remanded to

the Collector for decision afresh. However, simultaneously, it is to be borne in mind that if the respondent No. 3 is to be unseated even he will have to be extended an opportunity to tender whatever explanation he intends to furnish if at all he intends to do that. Even the petitioner can be asked to produce additional record and the matter can be remanded to the learned Collector for taking the decision afresh in the light of the observations made herein above.

9. The Writ Petition is partly allowed. The impugned judgment and order is quashed and set aside. The matter is remitted back to the learned Collector for decision afresh by extending opportunity of being heard to both the sides and even permitting them to file additional say, documents.

10. The parties shall appear before the Collector on 20.12.2021 and there shall be no need for any notice to be issued to them.

11. The learned Collector shall now make every endeavor to decide the matter as early as possible and in any case within a period of four weeks from the date of appearance mentioned above.

12. The Rule is made absolute in above terms.

(MANGESH S. PATIL, J.)

mkd/-