

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****WRIT PETITION (WP) NO.2457 OF 2021**

PETITIONER : Ravindra S/o Namdeo Pandit,
Aged about 45 years, Occ: Agriculturist
and Sarpanch of Gram Panchayat
Dudhaham, Tq. and Dist. Akola.

..VERSUS..

RESPONDENTS : 1. The Divisional Commissioner,
Amravati Division, Amravati
2. The Chief Executive Officer,
Zilla Parishad, Akola
3. Block Development Officer,
Panchayat Samiti, Akola, Tq. and Dist.
Akola.
4. Secretary/Gram Sevak,
Gram Panchayat Dudhaham, Tq. and
Dist. Akola.
5. Bapurao S/o Govind Pandir,
Aged about 55 years, Occ: Agriculturist,
R/o Dudhaham, Tq. and Dist. Akola.
6. Shankarrao Nagorao Mahalle,
Aged about 40 years, Occupation :
Agriculturist and Member of Gram
Panchayat Dudhaham, Tq. and Dist.
Akola.

Shri. S. D. Chopde, Advocate for Petitioner
Shri. S. M. Ukey, AGP for Respondent No.1
Shri. A. S. Thotange, Advocate for Caveator.

CORAM : **N. B. SURYAWANSHI, J.**
DATE : **15th JULY, 2021.**

JUDGMENT

Hearing was conducted through Video
Conferencing and the learned counsel agreed that

the audio and visual quality was proper.

2. **RULE.** Rule made returnable forthwith.
Heard with the consent of the parties.

3. The Petitioner is a Sarpanch of Gram Panchayat Dudhaham, Tq. and District Akola. The Respondent Nos.5 and 6 filed proceedings before the Respondent No.1 - the Divisional Commissioner under Section 39(1) of the Maharashtra Village Panchayat Act, 1959 (for short, "the Act of 1959"), seeking disqualification of the Petitioner. The Respondent No.1, in terms of Section 39, called inquiry report from the Respondent No.2 - the Chief Executive Officer. The inquiry report was submitted on 06.04.2021. The Petitioner contends that as per Section 39 of the Act of 1959, inquiry needs to be conducted by the Chief Executive Officer or the Deputy Chief Executive Officer. However, in the present case, inquiry was not conducted by either of them, therefore the inquiry report is vitiated. The Petitioner therefore filed application before the Respondent No.1 seeking re-inquiry by the Respondent No.2 - the Chief Executive Officer. The

said application came to be rejected vide order dated 06.07.2021 by the Respondent No.1. The same is challenged by the Petitioner in the present petition. The second grievance of the Petitioner is that the Respondent No.1, without giving an opportunity of hearing has closed the matter for orders on 06.07.2021.

4. The challenge raised by the Petitioner to the inquiry report at this stage is premature. The Petitioner is entitled to question the validity of inquiry report before the Respondent No.1, while arguing the matter on merits.

5. In the order sheet (Annexure-G), on 06.07.2021, the Respondent No.1 has noted as follows :

“Respondent Advocate shall submit final W.S. by 16.07.2021.

Case closed for order”

Sd/-
Divisional Commissioner,
Amravati.

6. The Respondent No.1 appears to have closed the matter for order, without giving an opportunity of hearing to the parties. The Respondent No.1 being quasi-judicial authority is duty bound to give opportunity of hearing to the concerned parties. The impugned order, closing the matter for orders, violates the principle of natural justice, and therefore, is unsustainable. Hence, the following order :

ORDER

- i) The impugned order at Exh-G dated 06.07.2021 passed by the Respondent No.1 closing the case for order is hereby quashed and set aside.
- ii) The Respondent No.1 shall decide the proceedings on merit, in accordance with law, after giving an opportunity of hearing to all the concerned parties.

Rule is made absolute, in the above terms with no order as to costs.

7. The learned AGP to communicate this order to the Respondent No.1.

(N. B. SURYAWANSHI, J.)