

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4887/2021

Pradip Shriram Pawar...Versus... Divisional Commissioner, Amravati, and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. A.V.Band, Advocate for petitioner
Mr. A.A.Madiwale, AGP for Respondent No.1
Mr. Sourabh Bhende, Advocate for Respondent No.3
Mr. P.P.Deshmukh, Advocate for Respondent No.4

CORAM : AVINASH G. GHAROTE, J.

DATE : 10/12/2021

Heard Mr. Band, learned counsel for the petitioner. Learned AGP appears for Respondent No.1 Mr. Deshmukh, learned counsel for Respondent No. 4 and Mr. Sourabh Bhende, learned counsel for Respondent No. 3. None for Respondent No. 2 though served.

The petition raises a limited issue regarding the mandate of Section 39 (1), second proviso of the Maharashtra Village Panchayat Act, which requires that the enquiry has to be conducted by the Chief Executive Officer by giving due opportunity of hearing to the parties.

It is contended that earlier in point of time when the enquiry was commenced, the Chief Executive Officer was Mr. Mangesh Mohite, who had issued appropriate notices to the parties and was conducting the enquiry. He however was transferred on 31.03.2021 and the present incumbent Smt. Vasumana Panta joined on 01.04.2021. Instead of issuing a fresh notice and completing the enquiry as required by the second proviso

to Section 39(1) of the said Act, the present Chief Executive Officer is stated to have prepared a report and submitted to the Respondent No.1. Mr. Band, learned counsel for the petitioner therefore takes exception to the report being submitted on the ground that it violates the requirement of the second proviso to Section 39(1) of the said Act.

The course adopted as indicated above by the present incumbent/Respondent No.2 of merely preparing the report and submitting it to Respondent No. 1 is not disputed by the learned counsels for Respondent Nos. 1, 3 and 4, in view of which, the application dated 21.09.2021 filed by the petitioner objecting to the report and claiming it to be discarded and the conduct of a fresh enquiry by affording opportunity of being heard could not have been rejected by the learned Respondent No.1.

That being the position, the impugned order is hereby quashed and set aside and the application dated 21.09.2021 is hereby allowed and the Respondent No.2 is directed to conduct an enquiry afresh by affording an opportunity to the concerned as contemplated by the second proviso to Sec 39(1) of the M.V.P. Act and thereafter submit the report to Respondent No.1.

The petition is accordingly allowed in above terms. No costs.

JUDGE

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date:10.12.2021 16:46