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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5826 OF 2021

Rutuja Rajendra Anandgaonkar
Age – 27 years, Occ – Sarpanch of
Village Manjrath,
R/o Manjrath, Taluka – Majalgaon
District - Beed

PETITIONER

VERSUS

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| <ol style="list-style-type: none">1. The Secretary
Village Development and
Panchayatraj Department
Mantralaya, Mumbai-322. The Additional Divisional Commissioner No.2
Aurangabad Division, Aurangabad
District – Aurangabad3. The Chief Executive Officer,
Zilla Parishad, Beed4. The Block Development Officer
Panchayat Samiti, Majalgaon
Taluka – Majalgaon,
District – Beed5. The Tahsildar / Returning Officer
Tahsil Offiec at Majalgaon
Taluka – Majalgaon, District – Beed6. The Gramsevak
Office of Grampanchayat,
Manjrath, Taluka – Manjrath,
District – Beed7. Raghunath Rajabhau Chumble
Age – 40 years, Occ – Member of
Gram Panchayat village Manjrath8. Tukaram Kadaji Chormale | <p>RESPONDENTS</p> |
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Age – 35 years, Occ – Nil

9. Santosh Vishavambharrao Waghmare
Age – 28 years, Occ – Nil

10. Prakash Bhagirath Chumble
Age – 32 years, Occ – Nil

11. Dattatraya Nagorao Shevale
Age – 30 years, Occ – Nil

12. Chandrakant Baban Raut
Age – 38 years, Occ – Nil

Respondents No.7 to 12 are
R/o Manjrath, Taluka – Majalgaon
District - Beed

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Mr. Subhash K. Savangikar, Advocate for the petitioner
Mr. S. W. Munde, AGP for respondent - State
Mr. Prashant D. Suryawanshi, Advocate for respondents No.3&4
Mr. Manoj D. Shinde, Advocate for respondent No.6
Mr. A. A. Khande, Advocate for respondents No.7 to 12

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 25th AUGUST, 2022

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the learned advocates for the parties.

2. The petitioner is aggrieved by the order dated 4th March, 2021 passed by the Hon'ble Minister of Rural Development Department.

3. The petitioner was elected as Sarpanch of village

Panchayat Manjrath, Taluka – Majalgaon, District – Beed on 4th January, 2018. Respondents No. 7 to 12 filed complaint against the petitioner seeking her disqualification alleging that the petitioner is not residing at the village and the administration of the village panchayat is being run by her father. The petitioner is in service at Mumbai in a private company. After her election, the petitioner has not attended the Gram Panchayat office on a single day. The amount recovered from vehicles visiting the village is not deposited in the bank account of the gram panchayat. The amount of Rs.75,000/- though was withdrawn for construction of cement road, however, the road constructed allegedly from the same amount has not been valued. Monthly meetings of the village panchayat are not held and false proceedings of the meetings are prepared.

4. On receipt of the said complaint, the Commissioner directed inquiry. The Chief Executive Officer, Zilla Parishad, Beed, submitted his inquiry report dated 16th July, 2020 to the Commissioner. It is stated in the inquiry report that the date of hearing of the inquiry was fixed on 23rd June, 2020, however, the petitioner remained absent on that day.

5. The Commissioner, after hearing the concerned parties, rejected the complaint lodged by the respondents under section

39 of the Maharashtra Village Panchayat Act (hereinafter for short "the said Act") holding that no ground is made out for disqualification of the petitioner, under section 39 of the said Act.

6. The respondents, being aggrieved by the said decision of the Commissioner, approached the Hon'ble Minister by filing appeal under section 39 (3) of the said Act. The Hon'ble Minister has allowed the appeal and set aside the order passed by the Commission and accepted the report submitted by the Chief Executive Officer, Zilla Parishad, Beed. Hence, the present writ petition.

7. Heard learned advocate for the petitioner and the learned advocates for the respondents and the learned Assistant Government Pleader for the State. Perused the grounds raised in the petition, reply filed by the respondents, the impugned order so also the report of the Chief Executive Officer and the documents placed on record as well as the order passed by the Commissioner.

8. The Commissioner has succinctly dealt with the report filed by the Chief Executive Officer in his order. The Commissioner accepted the contention of the petitioner in respect of absence of signatures of the petitioner and the Gram Sevak on the

proceedings. The Commissioner also accepted the contention of the petitioner that due to enforcement of the code of conduct of the election, monthly meetings of the gram panchayat could not be held and keeping updated proceeding book is the duty of the Gram Sevak and as the Gram Sevak was busy in election work and as Gram Sevaks were transferred from time to time, the proceeding book could not be updated. The Commissioner has further held that the petitioner was present in the meeting dated 7th January, 2020. The daily cash book produced by the petitioner for the period 30th May, 2018 to 31st May, 2019 shows that the daily recovered cash is reflected on the debit side. The same is also mentioned in the report of the Chief Executive Officer. The Commissioner has further accepted the petitioner's contention that the amount of Rs.75,000/- is reflected in the accounts of the Gram Panchayat and the relevant documents i.e. estimate, measurement book, work order, administrative and technical sanction were produced on record and the same are accepted by the Commissioner. The Commissioner has also accepted the contention of the petitioner that she resides at village Manjrath, which was supported by the newspaper reports, *Panchanamas* in respect of crop damage, photographs produced by the petitioner etc. The Commissioner has further observed that in this behalf, there is no specific comment made by the

Chief Executive Officer in his report. After considering the record and the report of the Chief Executive Officer, the Commissioner has arrived at a conclusion that no ground, contemplated under section 39 (1) of the said Act, is made out by the respondents for disqualification of the petitioner. The Commissioner, for arriving at the said conclusion has relied on decision of this Court in "***Shrikant V/s State of Maharashtra***" 2010 (4) Mh.L.J. 856.

9. It is required to be noted that while conducting inquiry, the petitioner was not present before the Chief Executive Officer.

10. The respondents challenged the order passed by the Commissioner, by filing appeal before respondent No.1. In para 1 of the impugned order, respondent No.1 has reproduced the complaint of the respondents and the order of the Commissioner is reproduced in para 2. In para 3, in one line, it is observed "*considering the contentions of the appellants and the report of the CEO, it is proved that the respondent Sarpanch has misused her powers and has failed in her duty*". On this ground alone, the appeal is allowed and the order passed by the Commissioner is set aside.

11. Obviously, the impugned order is unreasoned order and non application of mind on the part of respondent No.1 while passing the impugned order, is writ large on the face of record.

The rival contentions of the parties are not taken into consideration and no findings are recorded on merits of the matter.

12. In the light of the ratio of the Supreme Court in *"Kranti Associates Pvt. Ltd., and Others V/s Masood Ahmed Khan and Others"* MANU/SC/0682/2010 that unreasoned order cannot be sustained, the impugned order deserves to be quashed and set aside.

13. In the result, writ petition is allowed. The impugned order dated 4th March, 2021 passed by the Hon'ble Minister is quashed and set aside. Rule is made absolute in aforesaid terms. No order as to costs.

[NITIN B. SURYAWANSHI]
JUDGE