

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CONTEMPT PETITION NO. 280 OF 2021
/N
WRIT PETITION NO. 5826 OF 2021

Rutuja D/o Rajendra Anandgaonkar,
Age : 27 Years, Occu : Sarpanch
of village Manjrath, R/o. Manjrath,
Tq. Majalgaon, Dist. Beed,
Advocate- Savangikar Subhash K.

... PETITIONER

VERSUS

1. Ajit S/o. Balasaheb Kumbhar,
Age : 32 years, Occ. Service as
Chief Executive Officer, Zilla Parishad,
Beed, R/o. C.E.O. Quarter, Beed,
Tq. and Dist. Beed.
2. Smt. Pradnya W/o. Vishal Mane-Bhosle,
Age : 33 years, Occu. Service as
Block Development Officer, Class-I,
Panchayat Samiti, Majalgaon,
R/o. Majalgaon, Tq. Majalgaon,
Dist. Beed.
3. Ravindra S/o Ramesh Pawar,
Age : 45 years, Occu. Service as
Gramsevak of village Manjrath,
R/o. Manjrath, Tq. Majalgaon,
Dist. Beed.
4. Smt. Mahananda W/o. Vishwambhar Waghmare,
Age : 65 years, Occu. Upa-Sarpanch of village
Manjrath, R/o. Manjrath,
Tq. Majalgaon, Dist. Beed.

5. Raghunath S/o Rajaram Chumble,
Age : 40 years, Occu. Member of Grampanchayat
of village Manjarath, R/o. Manjrath,
Tq. Majalgaon, Dist. Beed.
6. Shahu S/o. Baliram Kale,
Age : 37 years, Occu. Member of Grampanchayat
of village Manjarath, R/o. Ahilyadevinagar,
Kale Vasti, Manjrath, Tq. Majalgaon, Dist. Beed.
7. Smt. Shantabai W/o. Nagorao Shewale,
Age : 65 years, Occu. Member of Grampanchayat
of village Manjarath, R/o. Jaibhavaninagar,
Jeejamata Chowk, Manjrath Road, Manjrath
Tq. Majalgaon, Dist. Beed.
8. Smt. Asha W/p Sandipan Dombale,
Age : 40 years, Occu. Member of Grampanchayat
of village Manjarath, R/o. Manjrath,
Tq. Majalgaon, Dist. Beed.
9. Satish S/o. Jayram Karanjkar,
Age : 65 years, Occu. Member of Grampanchayat
of village Manjarath, R/o. Manjrath,
Tq. Majalgaon, Dist. Beed.
10. The Secretary,
Village Development and
Panchayatraj Department, Mantralaya,
Mumbai-32.
11. The Additional Divisional Commissioner-2,
Aurangabad Division, Aurangabad,
Dist. Aurangabad.
12. The Tahsildar / Returning Officer,
Tahsil Office At Majalgaon,
Tq. Majalgaon, Dist. Beed.

... RESPONDENTS

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Mr. Subhash K. Savangikar, Advocate for Petitioners.

Mr. Prashant D. Suryawanshi, Advocate for Respondent Nos.1 & 2.

Mr. S. G. Sangle, AGP for Respondent Nos.10 to 12.

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CORAM : **SHRIKANT D. KULKARNI, J.**

RESERVED ON : 23rd March, 2022.

PRONOUNCED ON : 31st March, 2022.

ORDER :

. The petitioner by invoking Article 215 of the Constitution of India and Section 2(b) and Section 12 of the Contempt of Courts Act, 1971, has moved this petition against respondent Nos.1 to 9.

2 The petitioner was elected as Sarpanch of village Manjrath, Taluka Majalgaon, District Beed. On the basis of complaint of one Mr. Raghunath Rajebhau Chumble, Gram Panchayat Member, the proceedings were initiated before the Chief Executive Officer, Zilla Parishad, Beed under Section 39(i) of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as the "Act"). The Chief Executive Officer, Zilla Parishad, Beed submitted his report to the Additional Divisional Commissioner at Aurangabad. On the basis of report submitted by the Chief Executive Officer, Zilla Parishad, Beed,

the Additional Divisional Commissioner, Aurangabad after giving an opportunity of hearing to both the sides and after perusing the evidence, was pleased to dismiss the complaint by order dated 1st January, 2021. Feeling aggrieved by the said order dated 1st January, 2021 passed by the Additional Divisional Commissioner, Aurangabad, the complainant filed appeal under Section 39(3) of the Act before the Honourable State Minister, Rural Development Department, State of Maharashtra, Mantralaya, Mumbai. The Honourable State Minister was pleased to allow that appeal and the order passed by the Additional Commissioner, Aurangabad dated 1st January, 2021 under Section 39(i) of the Act came to be quashed and set aside. The report submitted by the Chief Executive Officer, Zilla Parishad, Beed was accepted, thereby the petitioner was disqualified to function as a Sarpanch of village Manjrath.

3 The petitioner has filed writ petition before this Court vide Writ Petition No.5826 of 2021 and challenged the order passed by the Honourable State Minister. In the said petition, the learned counsel for respondent Nos.3 and 4/Gramsevak and Deputy Sarpanch gave undertaking before this Court that they would not fill up the post of Sarpanch till the next date of hearing. That undertaking was accepted by this Court.

4 According to the learned counsel for petitioner, the said undertaking given on behalf of respondent Nos.3 and 4 has been breached. Hence, the petitioner has filed this contempt petition against respondent Nos.1 to 9.

5 Heard Mr. Subhash K. Savangikar, learned counsel for the petitioner, Mr. Prashant D. Suryawanshi, learned counsel for respondent Nos.1 and 2 and Mr. S. G. Sangle, learned AGP for respondent Nos.10 to 12.

6 Mr. Savangikar, learned counsel for the petitioner vehemently submitted that though the undertaking was given on behalf of respondent Nos.3 and 4 not to fill up the post of Sarpanch till the next date of hearing, the Grampanchayat had called meeting on 9th April, 2021 and passed resolution to fill up the post of Sarpanch. According to Mr. Savangikar, learned counsel for the petitioner, the said resolution amounts to breach of order passed by this Court. Respondent Nos.1 to 9 are liable to face contempt proceedings.

7 Mr. Suryawanshi, learned counsel for respondent Nos.1 and 2 invited my attention to the affidavit-in-reply filed on behalf of

respondent No.2. He pointed out that the Block Development Officer, Panchayat Samiti, Majalgaon had made it clear on affidavit that the post of Sarpanch of of Grampanchayat Manjrath is still lying vacant. Simply meeting of the Grampanchayat was held on 9th April, 2021 in the background of order passed by the Honourable State Minister. He submitted that no decision has been taken by the Members of the Grampanchayat to fill up the post of Sarpanch.

8 Mr. S. G. Sangle, learned AGP for respondent Nos.10 to 12 made similar submissions. He submitted that there is no merit in the contempt petition.

9 I have considered the submissions of both the sides and the learned AGP for respondent Nos.10 to 12/State. I have also gone through the copy of order passed by this Court in Writ Petition No.5826 of 2021 dated 5th April, 2021, copy of minutes of the meeting of Grampanchayat dated 9th April, 2021 and other documents placed on record by the petitioner.

10 The Block Development Officer, Panchayat Samiti, Majalgaon, District Beed on affidavit has made it clear that the post of Sarpanch of village Manjrath is still lying vacant. The post of

Sarpanch is not filled up. Mere holding of Grampanchayat meeting and passing certain resolution does not amount to contempt of the order passed by this Court dated 5th April, 2021. There is no official communication on record to indicate that the post of Sarpanch has been duly filled in. There is no public record/appointment order showing that the post of Sarpanch of village Manjrath is now occupied by someone else. I do not find force in the submissions of Mr.Savangikar, learned counsel for the petitioner in this regard. In absence of Sarpanch, the Deputy Sarpanch of the village Panchayat is empowered to look after the functions of village Panchayat in view of the provisions of the Maharashtra Village Panchayats Act. The functioning of the Grampanchayat is important at village level. It is foundation of the democracy.

11 Writ Petition No.5826 of 2021 filed by the present petitioner is still *sub-judice* before this Court. It is not made clear by the petitioner whether the undertaking given on behalf of respondent Nos.3 and 4 has been continued even after the order dated 5th April, 2021 and the same is in force. Section 44 of the Act makes it clear that the vacancy in the Panchayat should not affect the proceedings of the Panchayat. The provisions of Section 38 of the Act also empower the Deputy Sarpanch/Upa-Sarpanch to look after the

functioning of the Grampanchayat in absence of Sarpanch. Even for the sake of argument accepted that respondent No.4/Smt. Mahananda w/o Vishwambhar Waghmare, Deputy Sarpanch of village Manjrath, is looking after the functioning of the Sarpanch, certainly does not amount to *prima-facie* contempt of the order passed by this Court. It seems to be an arrangement made by the provisions of the Act to take care of the functioning of the Grampanchayat when Sarpanch is not available.

12 Having regard to the above reasons and discussion, it is clear that the petitioner has failed to make out *prima-facie* case to initiate contempt proceedings against respondent Nos.1 to 9. Hence, the following order is passed:

ORDER

The contempt petition stands dismissed.

[SHRIKANT D. KULKARNI, J.]