

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

904 WRIT PETITION NO.9686 OF 2021

SANGITA BAPU PATIL AND ANOTHER
VERSUS
DIVISIONAL COMMISSIONER AND OTHERS

...
Advocate for Petitioners : Mr. Kshitij Surve and
Mr Hemant S. Surve
AGP for Respondents – State : Mr. P. G. Borade
Advocate for Respondent No. 3 : Mr. P. B. Patil (Borse)

...
CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 11-03-2022

PER COURT :-

1. By this petition, petitioner No.1 who was the Sarpanch of Lon pra.u., Taluka Bhadgaon, District Jalgaon and petitioner No. 2 who was member of Grampanchayat and husband of petitioner No.1 have been disqualified from holding their respective posts by an interim order dated 09.02.2021 passed by the Collector, Jalgaon.

2. The order was carried before the learned Divisional Commissioner by way of an appeal under Section 16(2) of the Maharashtra Village Panchayat Act. The learned Divisional Commissioner by an order of 19.07.2021 dismissed the appeal of the petitioners by confirming the impugned order of the Collector, Jalgaon.

3. At the outset it is the contention of the learned counsel for the petitioners that no opportunity of hearing was given by the learned Divisional Commissioner and, therefore, the principles of natural justice have been violated while passing the impugned order.

4. My attention is invited to the roznama dated 05.03.2021, 12.03.2021, 26.03.2021, 09.04.2021, 07.05.2021, 11.06.2021 and 09.07.2021. A bare look at the roznama reveals that neither the appellant nor their counsel were present before the authority when the matter was called out, however, the respondent's counsel was heard.

5. The rozنامas dated 09.04.2021, 07.05.2021 and 11.06.2021 specifically indicates that due to the Pandemic of Covid-19, the matter was adjourned thrice.

6. Prima-facie, it appears that because of the Pandemic of Covid-19, perhaps the appellant were unaware of the proceedings before the learned Divisional Commissioner and, therefore, could not get an opportunity to put forth their side. In the interest of justice they will have to be given an opportunity of being heard before the learned Divisional Commissioner.

7. The learned counsel for the petitioners as well as the respondents are ad idem to remand the matter to the learned

Divisional Commissioner for granting fresh hearing to the respective parties and to decide the matter in accordance with law.

8. In light of the aforesaid observations, the following order is expedient ;

(i) The order of the learned Divisional Commissioner dated 19.07.2021 is quashed and set aside.

(ii) The matter is remanded to the learned Divisional Commissioner for deciding the same afresh after giving opportunities to all the parties.

(iii) All the rights and contentions of the respective parties are kept open.

(iv) It is made clear that this Court has not expressed any opinion on the merits of the case.

(v) The learned Divisional Commissioner is requested to decide and dispose of the appeal of the petitioner as expeditiously as possible on or before 30.04.2022 without getting influenced with his earlier reasonings and order.

(vi) The petition stands disposed of in above terms.

(vii) No costs.

(viii) The respective parties shall appear before the learned Divisional Commissioner on 23.03.2022 at 11.a.m.

[PRITHVIRAJ K. CHAVAN, J.]

shp/-