

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

WRIT PETITION NO. 10504 OF 2022

Pundalik s/O Tulshiram Sapkale
Age- 68 Years, Occu. : Retired,
Presently working as Sarpanch of
Village – Kanalda,
R/o Village-Kandalda, Taluka &
District-Jalgaon, Maharashtra

.. Petitioner

Versus

1. The State of Maharashtra,
through its Principal Secretary,
Rural Development & Panchayat
Raj Department, Mantralaya,
Mumbai.
2. The Ld. District Collector,
Jalgaon.
3. The Chief Executive Officer,
Zilla Parishad, Jalgaon.
4. The Extension Officer (Gram Panchayat),
Panchayat Samiti, Jalgaon.
5. The Block Development Officer,
(Class-1), Panchayat Samiti, Jalgaon.
6. Rupali W/o Ananda Sapkale
Age-42 years Occ- Household,
7. Triveni w/o Gokul Sapkale,
Age- 40 years Occ- Household,
8. Pratibha W/o Vishnu Bhangale,
Age- 32 years Occ- Household,

9. Kavita W/o Pramod Sapkale,
Age- 44 years Occ- Household,
 10. Vasanti W/o Prabhakar Rane,
Age- 52 years Occ- Household,
 11. Sangita W/o Naval Baviskar,
Age- 36 years Occ- Household,
 12. Nivrutti S/o Prabhakar Borole,
Age- 45 years Occ- Household,
 13. Jagdish S/o Sukdev Sapkale,
Age- 46 Years Occ- Nil,
 14. Nilesh S/o Vishnu Bhangale,
Age- 32 Years Occ- Nil,
 15. Suklal S/o Shravan Satote,
Age- 56 Years Occ- Nil,
 16. Harsha W/o Vinod Sapkale,
Age- 32 Years Occ- Household, .. Respondents
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Mr. Jitendra V. Patil, Advocate for the Petitioner .
 Mr. K. N. Lokhande, AGP for the Respondent Nos. 1 and 2.
 Mr. Angad L. Kanade, Advocate for the Respondent No. 6.
 Mr. Sanket N. Suryawanshi, Advocate for the Respondent No. 7.

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CORAM : SANDEEP V. MARNE, J.

DATE : 11-10-2022

ORAL JUDGMENT :

. By the present petition, petitioner assails the order dated 12.09.2022 passed by the District Collector, Jalgaon in Dispute Application No. 66 of 2022, by which the petitioner has been

disqualified for being a Sarpanch of Grampanchayat Kanalda. The disqualification is ordered on account of failure of the petitioner to convene monthly meeting for the month of October-2021.

2. Mr. Patil, the learned Counsel appearing for the petitioner would submit that on account of medical leave of the Village Development Officer from 11.10.2021, the petitioner was unable to convene meeting for the month of October-2021. He relies upon communications dated 27.10.2021 and 29.10.2021 made by the petitioner to Block Development Officer and Chief Executive Officer communicating the factum of absence of Village Development Officer leading to non-convening of monthly meeting of October – 2021. He also relies upon the order dated 25.10.2021 passed by the Block Development Officer handing over charge of Village Development Officer to Shri. Sunil Devchand Dandge. He would submit that despite handing over the charge, Shri. Sunil Devchand Dandge avoided to take over charge of the post of Village Development Officer of Gram Panchayat, Kanalda, on account of which a show cause notice was issued to Shri. Dandge by the Block Development Officer on 28.10.2021.

3. Shri. Patil also invites my attention to the reports dated

28.03.2022 and 25.04.2022 submitted by the Extension Officer and the Chief Executive Officer, highlighting the fact of absence of the Village Development Officer and Shri. Dandge to take over the charge of the post.

4. Mr. Patil would also rely upon the provisions of Rule 4 of the Maharashtra Village Panchayats (Meetings) Rules, 1959 (for short “Rules of 1959”) to contend that the notice for convening a meeting is required to be given by the Secretary alone. Referring to the provisions of the sub-section (20) of Section 3 of the Maharashtra Village Panchayat Act, 1959 (for short “Act of 1959”), Mr. Patil would contend that the term ‘Secretary’ referred to in Rule-4 of the Rules of 1959 means the Secretary of Panchayat appointed or deemed to be appointed under Section 60 of the Act of 1959. He would therefore contend that in absence of the Village Panchayat Officer, it was impossible for the petitioner to convene monthly meeting for October -2021. Lastly Mr. Patil would submit that all the monthly meetings from November – 2021 onwards have been conducted by the petitioner.

5. Learned counsel Mr. Kanade appears for respondent no.6 and learned counsel Mr. Suryawanshi appears for respondent No.7.

Even though no appearance is caused on behalf of respondent nos.8 to 16, it is common ground that respondent nos.6 to 16 had submitted a joint complaint seeking disqualification of the petitioner and they jointly represented in the proceedings before Collector. Since respondent nos.6 and 7 are represented by two learned advocates, I do not deem it appropriate to adjourn the proceedings any further for causing appearance for respondent nos.8 to 16.

6. Mr. Kanade and Mr. Suryawanshi would oppose the petition contending that between 01.10.2021 to 10.10.2021, the Village Development Officer was present in the office and it was possible for the petitioner to conduct the monthly meeting. They would submit that the meeting was not conducted by the petitioner during that period. They would rely upon the provisions of sub-section (11) of Section 7 of the Act of 1959 to contend that in absence of Village Development Officer, the meeting could have been convened by taking assistance of any government, semi government, employee like teacher, Talathi or Anganwadi Sevika. Despite existence of such special provision under Section 7 (11) of the Act of 1959, the petitioner did not take assistance of such officials so as to convene meeting in October – 2021. Referring to the contents of the complaint filed before the Collector, Mr. Kanade and Mr. Suryawanshi

would contend that there was no valid ground for the petitioner not to convene the meeting in October – 2021. They would also submit that three reports have been submitted by different officials recording concurrent findings against the petitioner and therefore the Collector has not committed any error in disqualifying the petitioner relying upon the said reports.

7. Mr. Lokhande, the learned AGP appearing for respondent nos.1 and 2 also opposes the petition submitting that the reports submitted by various officials are valid. He also relies upon the provisions of sub-section (11) of Section 7 of the Act of 1959 to contend that it was possible for the petitioner to conduct the monthly meeting by taking aid of the officials mentioned in that provision.

8. Rival contentions of the parties now fall for my consideration.

9. I have carefully gone through the order passed by the Collector on 12.09.2021. He has proceeded to disqualify the petitioner on the ground of his failure to convene monthly meeting for October-2021. The Collector has taken into consideration petitioner's defence that the meeting could not be convened on account of medical leave of the Village Development Officer. However, the Collector has not

taken into consideration the fact that the inability of the petitioner to convene monthly meeting was brought to the notice of the Block Development Officer and the Chief Executive Officer by him vide letters dated 27.10.2021 and 29.10.2021 respectively. The Collector has also ignored the fact that on account of medical leave of the Village Development Officer of Gram Panchayat Kanalda, Shri. Sunil D. Dandge was handed over the charge of Grampanchayat Kanalda by order dated 25.10.2021. The Collector has also failed to take into consideration the fact that Shri. Dandge had avoided to take over the charge of the post leading to issuance of show cause notice to him on 28.10.2021. Thus, while holding the petitioner responsible for not convening monthly meeting for October – 2021, the Collector has failed to take into consideration the aforesaid factors.

10. Proviso to Section 36 of the Act of 1959 uses the expression 'without sufficient cause'. In my view, the circumstances on account of which the meeting could not be held was a 'sufficient cause' within the meaning of Section 36, thereby saving the petitioner from disqualification.

11. Mr. Kanade and Mr. Suryawanshi have laid great emphasis on the provisions of sub-section (11) of Section 7 of the Act

of 1959 to contend that it was open for the petitioner to take assistance of various government officials to convene the meeting in absence of the Village Development Officer. However, the order passed by the Collector does not include any finding to this effect. Even though a specific contention was raised in the complaint filed by respondent no.6 to 16 about possibility of taking assistance of Talathi or Anganwadi Sevika for convening meeting, the Collector has ignored this aspect as well. Even with regard to the contention of the respondents that the meeting could have been conducted between 01st to 10th October, there appears to be no finding by the Collector in that regard.

12. The Collector has merely referred to the report submitted by the Block Development Officer on 22.03.2022. However, the contents of that report are apparently not noticed by the Collector. In that report, the Block Development Officer had referred to the report of the Extension Officer in which the factum of Shri. Dange avoiding to take over the charge of the post of Village Development Officer of Gram Panchayat Kanalda was specifically highlighted.

13. I therefore have no hesitation in coming to the conclusion that the findings recorded by the Collector in his order are perverse. He

has not taken into consideration the relevant material on record. Consequently the order passed by the Collector on 12.09.2022 deserves to be set aside. Consequently, I proceed to pass the following order.

ORDER

(i) Order passed by the Collector, Jalgaon on 12.09.2022 disqualifying the petitioner from being Sarpanch of Grampanchayat Kanalda is set aside.

(ii) The proceedings are remanded to the Collector, Jalgaon for holding fresh enquiry into the matter and after following the principles of natural justice, the Collector would be at liberty to pass a fresh order.

14. With the above directions, the Writ Petition is partly allowed. Rule is partly made absolute.

(SANDEEP V. MARNE, J.)

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