

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

WRIT PETITION NO.3447 OF 2021

Varsha Bhimrao Kanake,
Aged about 22 years,
Occu: Sarpanch,
R/o Chikhalvardha, Tah. Ghatanji,
Dist. Yavatmal – 445006.

..... **PETITIONER**

...V E R S U S...

1. State of Maharashtra through its
Collector, Yavatmal – 445001.
2. The Additional Collector, Yavatmal
District Collector Office,
Yavatmal – 445001.
3. Gram Panchayat, Chikhalvardha,
through its Secretary,
Tah. Ghatanji, Dist. Yavatmal – 445006.
4. Jaitu Pantuji Meshram
Member of Gram Panchayat,
Chikhalvardha, Tah. Ghatanji,
Dist. Yavatmal – 445006.

..... **RESPONDENTS**

Mrs. Mugdha R. Chandurkar, Advocate with Ms. Bhumika
Sarda, Advocate for Petitioner.
Ms. T. H. Khan, AGP for Respondents 1 to 3/State.
Mr. Dharaskar, Advocate h/f Mr. K. S. Narwade, Advocate
for Respondent 4.

CORAM: **ROHIT B. DEO, J.**
DATE: **28th FEBRUARY, 2022.**

ORAL JUDGMENT:

Heard Mrs. Mugdha Chandurkar, the learned Counsel

for the petitioner, Ms. T. H. Khan, the learned AGP for respondents 1 to 3 and Mr. Dharaskar, the learned Counsel for the respondent 4.

2. The petitioner is the elected Sarpanch of Chikhalvardha Gram Panchayat.

3. Section 36 of the Maharashtra Village Panchayats Act, (Act) reads thus:

36. Time and place of sitting of Panchayat and procedure at meeting.- The time and place of sitting, and the procedure at a meeting of the Panchayat shall be such as may be prescribed:

[Provided that, if the Sarpanch or in his absence the Upa-Sarpanch, fails without sufficient cause, to convene the meetings of the Panchayat in any financial year according to the rules prescribed in that behalf, he shall be disqualified for continuing as Sarpanch or, as the case may be, Upa-Sarpanch or for being chosen as such for the remainder of the term of office of the members of the Panchayat. The decision of the Collector on the question whether or not there was sufficient cause shall be final.]

4. Plain reading of the provision indicates that it is only if the Sarpanch fails to convene the meeting of the Panchayat according to the rules prescribed, **without sufficient cause**, that he shall be disqualified for continuing as Sarpanch.

5. Disqualification of an elected representative is a serious matter and it is obligatory on the part of the authority initiating action under Section 36 of the Act to give serious thought to the cause demonstrated by the elected representative for the inability or failure to convene meeting. In the present matter, one Jaitu Meshram – respondent 4 herein, lodged complaint that meetings were not convened as prescribed and sought disqualification. The Additional Collector, Yavatamal did note the submission of the petitioner that she took charge of the office of the Sarpanch on 18.02.2021, convened the first meeting on 10.03.2021 and between 16.04.2021 to 07.11.2021 meetings could not be convened in view of the pandemic situation. Petitioner pointed out that there was death due to the Covid-19 virus at Chikhalvardha.

6. In the cryptic order, all that is observed is that the meetings could have been held during the pandemic by maintaining social distance and adhering to Covid-19 appropriate protocol.

7. As observed *supra*, it is not the failure to convene meetings *ipso facto* that lead to disqualification. It is the failure to do so without sufficient cause, that will bring into play the power

of disqualification. Expression sufficient cause cannot be put in a straight jacket formula and would essentially depend on the ground situation. If meetings are not held during the pandemic, the ordinary presumption would be that there was sufficient cause. Be that as it may, considering that I intend to remand the matter for passing fresh decision, I need not delve deeper.

8. I am satisfied that the order impugned is unsustainable in law.

9. The order impugned is quashed.

10. The matter is remitted to the Additional Collector, Yavatmal for fresh decision in accordance with law after hearing all parties.

11. The parties shall appear before the Additional Collector, Yavatmal on 07.03.2022.

12. The petition is partly allowed in the aforesaid terms.

JUDGE