

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

WRIT PETITION NO.1023 OF 2023

- . Pundlik S/o Tulashiram Sapkale
Age: 61 Years, Occu: Retired,
Presently working as Sarpanch of
Village- Kanalda
R/o Village- Kanalda,
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, Occu.: Household
7. Triveni w/o Gokul Sapkale,
Age: 40 Years, Occu.: Household
8. Pratibha W/o Vishnu Bhangale
Age: 32 Years, Occu.: Household
9. Kavita W/o Pramod Sapkale
Age: 44 Years, Occu.: Household

10. Vasanti W/o. Prabhakar Rane
Age: 52 Years, Occu.: Household
11. Sangita W/o Naval Baviskar,
Age: 36 Years, Occu.: Household
12. Nivrutti S/o Prabhakar Borole,
Age:45 Years, Occu.: Household,
13. Jagdish S/o Sukdev Sapkale,
Age: 46 Years, Occu.: NIL
14. Nilesh S/o Vishnu Bhangale,
Age: 32 Years, Occu.: NIL
15. Sukalal S/o Shravan Satote,
Age: 56 Years, Occu.: NIL
16. Harsha W/o Vinod Sapkale,
Age: 32 Years, Occu.: Household

Respondent 06 to 16 are the Elected
members of Gram panchayat
Kanalda permanent resident of
Village Kanalda
Taluka & District- Jalgaon

17. Village Development Officer,
Office of Gram panchayat Kanalda
Village Kanalda
Taluka & District: Jalgaon

.. Respondents

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Advocate for Petitioner: Mr. Patil Jitendra V.
AGP for Respondent/State: Mr. N. T. Bhagat
Advocate for Respondent Nos.3 to 5 & 17:
Mr. Atmaram J. Patil

Advocate for Respondent Nos.6 to 16: Mr. D. P.
Palodkar h/f. Mr. Paresh B. Patil (Borse)

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CORAM:	ARUN R. PEDNEKER, J.
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Reserved on:	28.02.2023
Pronounced on:	15.03.2023

JUDGMENT:

1. The Petitioner is challenging the impugned order dated 12.01.2023, passed by the learned Collector, Jalgaon in Dispute Application No. 66 of 2022, wherein the Petitioner - Sarpanch of village Kanalda was disqualified under Section 36 of the Maharashtra Village Panchayats Act, 1959 for not holding the monthly meeting for the month of October 2021.

2. Heard Mr. Jitendra V. Patil, learned Counsel for the Petitioner, Mr. N. T. Bhagat, learned AGP for Respondent/State, Mr. Atmaram J. Patil, learned Counsel for Respondent Nos.3 to 5 and 17 and Mr. D. P. Palodkar holding for Mr. Paresh B. Patil (Borse), learned Counsel for Respondent Nos.6 to 16.

3. Brief facts leading to the filing of the petition can be summarized as under:-

A. The Petitioner is an elected Sarpanch of village Kanalda. Respondent

No.6 to 16 are also the elected members of village Kanalda. The Petitioner is elected from the reserved category post. During the term of the Petitioner, the Respondents / Members filed Grampanchayat Dispute Application No.66 of 2022, before the Collector for not convening monthly meeting for the month of October 2021. In the said application, the allegation is that there is deliberate attempt by the petitioner / Sarpanch to suppress the approval / audit of expenses of September 2021 and accordingly the meeting for the month of October 2021 was not undertaken and, as such, the Respondents prayed for the disqualification of the Petitioner for violation of Section 36 of the Maharashtra Village Panchayats Act, 1959. The Petitioner appeared before the Collector, Jalgaon and filed his reply. The defense of the Petitioner was that he has always convened meetings for all

months, however, only in the month of October the Village Development Officer, surprisingly went on medical leave from 11.10.2021 and did not resume duties for the whole month. In view of the non availability of the Village Development Officer, the meeting for month of October 2021 could not be convened. The Petitioner also made a representation dated 27.10.2021 to his immediate superior officer Block Development Officer that due to non availability of the Village Development Officer the administration of the panchayat is stuck up. The petitioner also conveyed his inability to conduct the meeting on 29.10.2021, to the Chief Executive Officer, Zilla Parishad, Jalgaon. Thereafter, the Petitioner tried to conduct the meeting of October month in November and accept the agenda for the month of September and October in the

month of November. However, there was objection by the applicants to take up the agenda of the month of September and October in the month of November. The petitioner further submits that another officer was appointed on 27.10.2021 as a substitute of Village Development Officer. However, he also did not take charge till the end of the month and, as such, for the entire month the petitioner was handicapped in conducting monthly meeting for October 2021. The Collector, after considering the response filed by the Petitioner, disqualified the Petitioner.

B. Aggrieved by the judgment of the Collector, the Petitioner filed Writ Petition in the High Court, bearing Writ Petition No.10504 of 2022. After considering the matter on merits, this Hon'ble court in the aforesaid Writ

Petition by Judgment and Order dated 11.10.2022, has held as under:-

"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. "

C. As the matter was remanded back to the Collector, and the Collector on reconsideration of the material, passed the impugned order dated 12.01.2023 disqualifying the Petitioner as the Sarpanch of village Kanalda. The learned Collector, by order dated 12.01.2023, has held as under:-

"6. Similarly, as per record it becomes clear that, sitting Sarpanch and concerned Gramsevak Shri. B.S.Patil were working at village Panchayat Kanalda from 01/10/2021 to 10/10/2021. In meantime sitting Sarpanch and concerned Village Development Officer were enable to convene monthly meeting of October, 2021, because thereafter, Village Development Officer Shri. Patil had been on medical leave from 11/10/2021 to 21/10/2021, similarly, the sitting Sarpanch made correspondence to concern superior officer for getting new Village Development Officer, on 29/10/2021 means belatedly at the ending of October month. Accordingly, it becomes clear that, sitting Sarpanch failed to discharge of duty and did not hold the meeting of October,

2021 month and thereby violated provisions of Section 36.

Similarly, after medical leave was over the previous Village Development Officer joined on 01/11/2021 and thereafter also, it was possible for Sarpanch to convene monthly meeting on adjacent date to month of November, 2021 means in first week of November month and in which the review of debit expenditure of previous month and other transaction means of September, 2021 ought to have been taken. However, Respondent no.1 did not hold monthly meeting on 01/11/2021 or date adjacent to month of October, 2021. In short Sarpanch has deliberately failed to hold monthly meeting of October, 2021.

Similarly, Hon'ble High Court Bench at Aurangabad has been pleased be passed order dated 12/03/2019 in W.P.No. 10956/2018 Salimbi Mubarak Tamboli V/s. State of Maharashtra. Mh.L.J. 2019 (5) as per mentioned on Page No. 207 as under:

(a) Bombay Village Panchayat Act (3 of 1959), 8.36 Proviso and Bombay Village Panchayat (meeting) Rules, RR.4, 5 & 6 Disqualification of Sarpanch - Convention of monthly meeting disqualification of Sarpanch for not holding monthly meeting proviso to section 36 clearly

indicates intent and object of legislature that Sarpanch shall be responsible for convening monthly meeting - In absence of Sarpanch, Upa Sarpanch would be under obligation to convene such meeting Secretary has meeting contention that Secretary can convene meeting not sustainable disqualification of Sarpanch affirmed (Paras 17, 19, and 20),

(b) Bombay Village Panchayat Act (3 of 1959), 8.36 proviso and Bombay Village Panchayat (meeting) Rules, 1959, RR. 4, 5 and 6 Disqualification of Sarpanch Monthly - meeting - Disqualification of Sarpanch for not holding monthly meeting sufficient cause Petitioner - Sarpanch stated that she could not conduct monthly meeting due to non co-operation of Gram Sevak cause is not sufficient to justify failure to hold meeting - Disqualification order affirmed - Petition against order disqualification of Sarpanch, dismissed 19981 Mh. L.J. 815, Ref. (Para 25)."

D. The learned Collector held that once the Sarpanch without sufficient reason does not hold the meeting for the month then he would be disqualified to hold the post of Sarpanch. The Collector has held that the Petitioner would have

conducted the meeting between 01.10.2021 to 10.10.2021, as the Village Development Officer was absent from 11.10.2021 to 31.10.2021 on medical leave and that the Petitioner would have on 29.10.2021 in the end of the month could have taken permission from the superior officer by making appropriate communication and, as such, he has violated conditions for holding the monthly meeting for the month of October. The Collector has further held that in any event the meeting could have been conducted in first week of November. However, he having not done so, it would mean that the Petitioner has intentionally not conducted the meeting for the month of October and, as such, disqualified the Petitioner.

SUBMISSIONS:-

4. Mr. Jitendra V. Patil, learned Counsel for the Petitioner contends that the Petitioner was not aware of the fact that the medical officer

would go on leave from 11.10.2021 and that in all the monthly meetings prior and thereafter except in the month of March where multiple meetings are conducted, all the meetings were called after 15th of every month and since he was not aware that Village Development Officer would go on medical leave, the meeting for the month of October could not be conducted.

5. The Petitioner further contends that he had made communication to the Block Development Officer, so also, the Chief Executive Officer informing them about the non availability of the Village Development Officer and the administration of the village panchayat being impaired. The another officer appointed in place of the Village Development Officer also did not take charge and, as such, the monthly meeting could not be conducted.

6. The Petitioner further submits that in Section 36 of the Maharashtra Village Panchayats Act, 1959 there is no automatic disqualification

if the monthly meeting is not held. Disqualification is incurred only if there is "no sufficient cause" to hold the meetings. The disqualification comes only if there is no sufficient cause for holding the meeting. The learned Counsel also relies upon the following Judgments passed by the Hon'ble Supreme Court and this Court:-

(a) Raju Yashwant Bhoir Vs. District Collector, Raigad and others, (2012) 4 SCC 407,

(b) Shubhangi Anil Gawande and others Vs. Additional Collector and others, dated 28.01.2010 in Writ Petition No. 5151 of 2007,

(c) Radhabai Vs. The Collector, Nanded and others, dated 30.03.2022 in Writ Petition No.2135 of 2022.

7. Per contra, Mr. Palokdar, learned Counsel appearing for Respondent Nos.6 to 16 does not dispute the facts in the case as stated above, however, he submits that there is a distinction

between 'conducting a meeting' and 'convening a meeting'. The learned Counsel for the Respondents submits that it is the responsibility of the Sarpanch to convene a meeting and if the actual conduct of the meeting could not be possible in view of the various factors that may be beyond the control of the Sarpach or the Upa-Sarpanch would not be liable for disqualification. However, in the event the Sarpanch does not convene a meeting he would be liable for disqualification. He has also taken me through various earlier meetings convened by the Sarpanch. He submits that Section 36 of the Maharashtra Village Panchayats Act, 1959 uses the word convening of the monthly meeting and that it is the responsibility of the Sarpanch to convene the monthly meeting. The Petitioner having failed to do so he is liable for disqualification. He relies upon the Judgment of the Hon'ble Supreme Court in the case of Salimbi Mubarak Tamboli Vs. State of Maharashtra and others, (2019) 5 Mh.L.J. 207.

8. Mr. Palokdar, learned Counsel for the Respondents has also relied upon the Judgment of Gunwantrao Yeshwantrao Deshmukh Vs. State of Maharashtra and another, 1981 Mh.L.J. 815, more particularly, at paragraph no.8, has held as under:-

"8...Section 36 read with rules enjoins a duty upon the Sarpanch or Upa-Sarpanch to convene the meeting as per the rules prescribed. The proviso makes this position further clear because it provides for a penalty for not convening meeting as per rules. The proviso therefore makes it very clear that the substantive part of the section is mandatory one. The rules framed under Bombay Village Panchayat Rules known as Bombay Village Panchayat (Meeting) Rules, 1959 prescribe that the panchayat shall meet at least once in every month on such day as may be fixed by the Sarpanch or in his absence by the Upa-Sarpanch. The rule 3 which is mandatory in form, thereafter lays down that at least one meeting in every month should be convened. The rules also lay down as to how the business will be treated at the meeting. Rule 13 then lays down that no resolution of the panchayat shall be modified or cancelled within 3 months of the passing thereof unless certain conditions are fulfilled. According to Rule 15 every meeting is open to the public unless the person presiding decides that any enquiry or deliberations of the panchayat should be held in camera. Rule 23 then provides for as to how the motion will be considered. As per rule 29 when the votes are taken

by ballot each member has to record his vote on voting paper which shall not be signed by him etc. Then according to rule 39 no motion shall be discussed or noted in the minute book unless and until it has been properly proposed and seconded. According to rule 40 the proceeding of the each meeting of the panchayat is to be recorded in a bound book and a copy of the proceeding is to be submitted to the Chairman of the Panchayat Samiti and to the Chairman of the Standing Committee within 7 days of the meeting. If all these rules are read together and harmoniously, it is quite clear that decision by circulation is wholly ruled out and is not contemplated. To say the least such a method is prohibited by necessary implication. In substance it will amount to negation of the object of section 36 itself as well as rules framed. thereunder. In these circumstances a thing which is prohibited by the statute itself cannot be pleaded as sufficient cause for failure to convene the meeting. The Collector has considered the cause shown by the petitioner and has also come to the conclusion that the circulating memos were issued by the Sarpanch for very trifling and non urgent matters which cannot be treated as substitute for the meeting. In our opinion the finding recorded by the Collector is correct and calls for no interference, in this writ jurisdiction."

9. Having considered the rival submissions the relevant Section 36 of the Maharashtra Village Panchayats Act, 1959 reads as under:-

"36. Time and place of sitting of panchayat and procedure at meetings.- 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."

10. It is to be noticed from Section 36 that it is responsibility of the Sarpanch or Upa-Sarpanch as the case may be to hold the monthly meetings and for failure to hold any of the monthly meetings for sufficient cause is disqualified to act as a Sarpanch or Upa-Sarpanch. The responsibility of the Sarpanch is to convene a meeting. In the instant case, the Village Development Officer was not available from 11.10.2021 till the end of the month as he was on medical leave and an officer appointed on 27.10.2021 also did not assume charge. From the

record produced it is to be noted that all the meetings prior to October 2021 were convened and conducted after 15th of each month except the month of March where multiple meetings were conducted.

11. It is the contention of the Petitioner that he was not aware that the Village Development Officer would go on medical leave on 11.10.2021, is an acceptable explanation and the Collector has erred in holding that the Petitioner could have convened the meeting on 01.10.2021. to 11.10.2021, more so, when all earlier monthly meetings were conducted after 15th of every month.

12. As regards the contention of the Respondent Nos.6 to 16 that it is the responsibility of the Sarpanch or the Upa-Sarpanch as the case may be to convene the monthly meeting and non-convening the monthly meeting by the Sarpanch makes him liable for disqualification although the conduct of the meeting may become impossible in a given situation. However, the submission, that it is the responsibility of the

Sarpanch to convene the meeting and the Sarpanch having failed to convene meeting incurs disqualification under Section 36 of the Maharashtra Village Panchayats Act, 1959 is without any substance, as in absence of the Village Development Officer it would be an empty formality. As per Section 3(20) and Section 60 of the Maharashtra Village Panchayats Act, 1959, the Village Development Officer is the Secretary of village panchayat. As per Rule 4, 5(2), 6 and 40 of the Bombay Village Panchayats (Meetings) Rules, 1959 several duties are cast upon the Village Development Officer in respect of the meetings of the village panchayat. The relevant rules and sections are as under:-

" The Maharashtra Village Panchayats Act, 1959:-

Section 3(20):-

"Secretary" means a secretary of a panchayat appointed or deemed to be appointed under Section 60 of this Act;"

Section 60:-

60. Secretary of panchayat.-

(1) There shall be one or more Secretaries for every panchayat, or a group of panchayats as the Chief Executive Officer may (having regard to

the extent and population of the village and income of the panchayat), by a general or special order, determine.

Provided that, the Secretary shall also function as Secretary to the Gram Sabha of the respective Panchayat.

..."

"The Bombay Village Panchayats (Meetings) Rules, 1959:-

Rule 4:-

The Secretary shall, at least three clear days before the date fixed for any ordinary meeting, or for any meeting called under Sections 28, 33 or 43, send or cause to be sent to all the members intimation of the date, time and place of and the business to be transacted at such meeting.

Rule 5(2):-

The Secretary shall, at least one clear day before the date fixed for a special meeting, send or cause to be sent to all the members intimation of the date, time and place of such special meeting and of the business to be transacted thereat.

Rule 6:-

(1) A notice stating the date, time and place of every meeting of the panchayat and of the business to be transacted thereat, shall be placed on the notice-board at the office of the panchayat. An announcement of the date of every meeting shall also be made by beat of drum in the village, and if there are more than one village in each of such villages, not late than the day immediately following the day on which the notice had been affixed as aforesaid.

(2) Every meeting of the panchayat shall be held in the office of the village panchayat or the village chavdi.

Provided that, the panchayat may, if possible, hold at least one meeting during every financial year, in the localities where the population of Scheduled Castes is concentrated."

Rule 40:-

The proceedings of each meeting of the panchayat shall be recorded in a bound book. In this book shall be entered the names of the members present at each meeting, the decisions arrived at, the names of the members voting for or against and of the members remaining neutral. The proceedings shall be signed by the person presiding at the meeting and shall be read out at the next meeting of the panchayat for confirmation. A copy of the proceedings shall be submitted to the Chairman of the Panchayat Samiti and the Chairman of the Standing Committee within seven days of the meeting. The proceedings shall be open to inspection, at all reasonable times, by any member of the panchayat."

13. It is to be also noticed that the monthly meetings were always held by the Petitioner since April to September 2021, except for the month of October and, thereafter, the meetings were also held by the Petitioner.

14. This Court in the case of Shubhangi Anil Gawande and others Vs. Additional Collector and others, dated 28.01.2010 in Writ Petition No. 5151

of 2007, wherein at paragraph No.6, it has held as under:-

"6. The provisions of Section 36 of the Act show that the obligation to convene meeting of Panchayat is contemplated upon Sarpanch & in his absence on Upsarpanch. Disqualification accrues for not convening such meeting without sufficient cause. The finding of the Collector on question of availability of such sufficient cause has been made final. This, therefore, clearly shows that mere not holding of meeting is not disqualification and something more is required to be brought on record. The absence of meeting has to be shown as deliberate failure to hold meeting and for that purpose, it is required to be established that though meeting could have been held as required, it was not held. Thus, absence of sufficient cause for not holding the meeting is the material ingredient in the entire scheme."

And, so also, in the case of Radhabai Vs. The Collector, Nanded and others, dated 30.03.2022 in Writ Petition No.2135 of 2022, referring upon the earlier Judgment of Shubhangi (supra) it has held as under:-

"11. In Shubhangi Anil Gawande (supra), the Co-ordinate Bench of this Court held thus:

"6. The provisions of Section 36 of the Act show that the obligation to

convene meeting of Panchayat is contemplated upon Sarpanch and in his absence on Upsarpanch. Disqualification accrues for not convening such meeting without sufficient cause. The finding of the Collector on question of availability of such sufficient cause has been made final. This, therefore, clearly shows that mere not holding of meeting is not disqualification and something more is required to be brought on record. The absence of meeting has to be shown as deliberate failure to hold meeting and for that purpose, it is required to be established that though meeting could have been held as required, it was not held. Thus, absence of sufficient cause for not holding the meeting is the material ingredient in the entire scheme.

7.The relevant part of application under Section 36 of the Act moved by respondents No.2 and 3 shows that the meeting for March 2006 was not called by Sarpanch or in his absence by Upsarpanch. It is pleaded that as meeting was not called, there is default. The application, therefore, does not show that though the meeting could have been called, it was not held. The absence of any justification for not holding meeting is not pleaded. Even if it is not pleaded and the collector is called upon to record a finding on the point of disqualification, section 36 of the Act requires the Collector to find out whether the meeting of March 2006 could not be held for any valid reason...."

"Legislature has given finality to the decision of Additional Collector on the question whether or not there was sufficient cause for not holding the

meeting. In view of this finality, it is clear that the absence of decision on said aspect by the Additional Collector, vitiates the entire exercise under taken by him"."

15. Thus, in view of the various rules as quoted above, the Village Development Officer is the responsible officer who has various duties cast upon him to conduct monthly meetings and, as such, the Petitioner had sufficient cause in not holding the meeting for the month of October. This Court in the earlier Writ Petition No.10504 of 2022 had also by its earlier order dated 11.10.2022, at paragraph no.10, has also held that there was sufficient cause within the meaning of Section 36 of the Maharashtra Village Panchayats Act, 1959 for not holding the meeting for the month of October. However, the matter was remanded on the aspect of, whether the assistance could have been taken from the various Government Officers in terms of Section 7(11) to conduct the meetings and whether non joining of Mr. Dandge, who had not taken the charge of Village Development Officer this aspects being not

considered by the Collector that the matter was remanded in entirety. As regards the availability of Section 7(11) it is to be noticed that the same is available for only conducting the proceedings of meetings of the Gram Sabha and there is no similar parallel provision under Section 36 for seeking assistance of any Government officer for conduct of the monthly meeting.

16. Having held so above, I hold that the Collector has wrongly disqualified the Petitioner and that there was sufficient cause in not holding the meeting for the month of October of Gram Panchayat. The Hon'ble Supreme court in the case of *Bhoir (supra)*, has held that unsetting an elected member is a very serious issue and there has to be sufficient evidence to unseat a publicly elected person.

17. The reliance placed by the learned counsel for the respondents on the Judgment of *Salimbi (supra)*, this Court has considered Section 36 of the Act, wherein it is held that Section 36 of the Act only prescribes the time and the steps

for the purpose of meeting of the panchayat. It has held in the case of Salimbi (supra) as under:-

"22. Insofar as the second issue of sufficiency of the reasons is concerned, I find an answer in the Judgment delivered by this Court in the matter of Gunwantrao Yeshwantrao Deshmukh v. State of Maharashtra, reported in 1981 Mh.L.J. 815 : AIR 1982 Bom 295. The Division Bench of this Court was considering the issue of failure on the part of the Sarpanch in convening the monthly meeting. Placing reliance upon another Judgment of the learned Division Bench in the matter of Special Civil Application No. 2274/1965 with Special Civil Application No. 11/66, delivered on 13-6-1966, it was concluded that Rule 3 casts a compulsory obligation in connection with holding at least one meeting of the Village Panchayat in every month. It was further concluded that the monthly meeting of the Panchayat, under the above Rule, can be convened only by the Sarpanch and in his absence by the Upa-Sarpanch. The obligation under the Rule could, therefore, be discharged only by the action of convening the meeting of the Panchayat, by the Sarpanch and in his absence, by the Upa-Sarpanch.

23. In the above backdrop, the sufficiency of reasons for failing to conduct such a meeting can be considered, to assess as to whether the Sarpanch had a frivolous or a lame excuse or whether he was precluded by such reasons which would convince any prudent person that it was beyond his control to convene such monthly meeting. In the matter of Govindrao Tulshiram Waghmare v. Ranjit Mukundrao Halse, Writ Petition No. 3887

of 2013, decided on 8-8-2013 [2013 MhL Online 102] (Aurangabad Bench), this Court perused the material on record and ultimately concluded that Rule 3 of the Meeting Rules is a mandatory provision. It was concluded that the reason cited by the said petitioner Govindrao that, there was a death in the family and hence, the meeting was adjourned on 20-9-2011 and was never held in the said month, was not a unconvincing reason. It was also recorded that in so far as the meeting of 15-8-2011 was concerned, the same was adjourned without transacting any business and there was no material to indicate that it was subsequently held in the month of August, 2011.

24. In similar circumstances, in the matter of Kishanrao Madhavrao Kadam v. State of Maharashtra, Writ Petition No. 1542 of 2013 (Aurangabad Bench), this Court concluded that merely because the Election Commission imposed the code of conduct w.e.f. 3-1-2012 till 16-2-2012, would not be a sufficient cause for not holding a meeting in the month of February, 2012, when the monthly meeting was held on 15-1-2012, notwithstanding the imposition of the code of conduct. It was further held that, there was no provision suggesting that, without the permission of the State Election Commission, such a monthly meeting mandated by law, could not have been held.

25. In view of the above, I find that the plea put forth by the petitioner Sarpanch that she could not conduct the monthly meetings in August and November, 2017 due to the non-cooperation of the Gram Sevak, cannot be said to be a cause sufficient to justify the failure to hold such

meetings. As such, this petition being devoid of merit, is therefore, dismissed. Rule is discharged."

It has held in the case of Salimbi (*supra*), that considering Rule 3 the entire responsibility of convening ordinary meeting of each month was on the Sarpanch and in absence by Upa-Sarpanch. The Responsibility is casts upon the Sarpanch or the Upa-Sarpanch to hold the monthly meeting, however, if, the meeting is not held for sufficient reason then there is no disqualification under the Act. In the instant case, it was beyond the apprehension of anybody that the Village Development Officer would proceed on leave from 11.10.2021, and, did not take charge till the end of the month, so also, the substitute officer appointed near the end of October month also did not take charge and, as such, the explanation given by the Sarpanch that he could not hold the meeting for the said reason has to be accepted.

18. In view of the same, the Writ Petition is allowed and impugned order dated 12.01.2023, passed by the Collector, Jalgaon disqualifying the Petitioner from holding the post of Sarpanch is set aside and the Writ Petition is disposed of.

[ARUN R. PEDNEKER, J.]

19. At this juncture, Mr. Palodkar, learned Counsel for the Respondents prays for continuation of the interim arrangement, which was done by the authorities i.e. Upa-Sarpanch holding the charge of Sarpanch and said interim arrangement be continued for another four (04) weeks.

No such relief can be granted at this stage.

[ARUN R. PEDNEKER, J.]

marathe