

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

WRIT PETITION NO. 2251 OF 2023.

Saurabh S/o. Arjun Nalawade,
Age 23 years, Occ. Education,
Social Work and Acting Sarpanch
of Village Panchayat,
Sakshal Pimpri
Taluka and District Beed.

.. Petitioners.

Versus

01. The State of Maharashtra and others.

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Mr. Vaibhav U. Paawar, Advocate for the petitioner,
Mr. S.B. Pulkundwar, AGP for respondent Nos. 1 and 2.
Mr. P.D. Suryawanshi, Advocate for respondent Nos. 3 and 4

**CORAM : NITIN W. SAMBRE AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 21st MARCH 2023.

P.C.:-

The petitioner has impugned the order/communication dated 28.12.2022 issued by the respondent No.3 Additional Chief Executive Officer, Zilla Parishad, Beed, thereby assigning execution of the development works to the private agencies. The petitioner is further seeking directions against the respondent/authorities to permit respondent No.5 Village Panchayat to undertake sanctioned development works in respect of Primary Health Center at Sakshal Pimpri, Taluka and District Beed.

2. The contention of the petitioners is that, he is newly elected Sarpanch of village Panchayat, Sakshal Pimpri. The elections of Gram Panchayat were held in the year 2022. The petitioner assumed charge of the post of Sarpanch. He noticed that the development works in relation to Primary Health Center having valuation of less than 10 Lakhs have been allotted to private agencies under the impugned communication. In fact, in view of the policy underlying in the Govt. Resolution dated 9.2.2009, the development works having valuation of less than 10 Lakhs can be executed by the village Panchayat. However, in absence of consent from the village panchayat, the development works are assigned to private agencies.

3. Mr. Vaibhav U. Pawar, learned counsel appearing for the petitioner would submit that the policy of the Government underlying through Govt. Resolution dated 9.2.2009 and 25.3.2015 mandate that village panchayat shall be given liberty to execute the development works up to Rs. 10 Lakhs through its own machinery or localized process. He would urge that before issuing impugned order/communication dated 28.12.2022, respondents have not obtained consent from the village panchayat. He would submit that during monthly meeting dated 05.01.2023, the village panchayat has passed resolution to carry out the development works being the local authority and communicate such decision to the respondents. In that view of the matter, the impugned communication/order is liable to be quashed and set aside. He would urge that a further direction be issued to the respondents to permit the village panchayat to execute the work through its own agency.

4. Mr. P.D. Suryawanshi, learned advocate for respondent Nos. 3 and 4 would submit that the various development works were sanctioned under Govt. Resolution dated 12.9.2022 for which administrative and technical sanction is accorded. The village panchayat Sakshal Pimpri has issued communication dated 18.10.2022 showing its incapability to execute the work and no objection to complete the concerned work from Labour Cooperative Society or unemployed engineers. Accordingly, orders were issued thereby appointing respondent Nos. 6 to 9 contractor/agencies to execute the work i.e. installment of LED with pole, renovation of Primary Health Center Building, Fixing paver blocks, work of furniture, work of shed, installation of Solar Power Bank. Except installation of solar power bank, all other works have been substantially executed.

5. We have appreciated the submissions advanced by respective advocates appearing for the parties. Perused the record and pleadings. Pertinently, on 18.10.2022, a communication/no objection certificate has been issued by Village Panchayat Sakshal Pimpri, which has been signed by the Village Development Officer/Gram Sevak, as well as Sarpanch of village Sakshal Pimpri, District Beed. It is counter signed by the Block Development Officer, panchayat Samiti, Beed. It states that the village panchayat is not in a position to execute the works and they have no objection to get the work executed through labour cooperative society or unemployed engineer. In pursuance of the said certificate, the impugned orders dated 28.12.2022 came to be issued by the respondent No.3, thereby appointing respondent Nos. 6 to 9 - priate agencies to execute the work.

6. The elections of the Gram Panchayat, Sakshal Pimpri were

held in the month of December, 2022. The petitioner is directly elected Sarpanch. It appears that after duly elected representatives assumed charge, the resolutions dated 5.1.2023 is passed. However, before such resolution was passed, the impugned communication was issued on the basis of "No objection" given by the Village Panchayat to execute the work through external agencies.

7. It cannot be disputed that State of Maharashtra has promulgated policy under the Government Resolutions dated 9.2.2005 and 25.3.2015 to assign execution of the work to the Village Panchayats when the income of such Panchayat is up to Rs. 50 Lakhs and the estimated cost of the work is Rs. 10 Lakhs. The purpose behind such Govt. Resolution is to provide autonomy to the village panchayats to execute the work through their own agencies. However, in the present case, the communication dated 18.10.2022 has been issued by the village panchayat showing their incapability to execute the work with no objection to assign such work to any other agency. The respondents have acted upon such no objection certificate and carried out further process thereby showing development works to be executed by the respondent Nos. 6 to 9.

8. Pertinently, the resolution dated 5.1.2023 has been passed after issuance of aforesaid works, the communication dated 20.1.2023 has been issued under the signature of the Village Development Officer/Gram Sevam stating that the communication dated 18.10.2022 is not supported by the resolution of the Village Panchayat. However, such communication appears to be after-thought and influenced by the newly elected office bearers of the village Panchayat. The Government Resolutions dated 9.2.2009 or 25.3.2015 nowhere require that for issuing

no objection to execute the work through private agencies, the resolution of the village panchayat is necessary. Clause No.6 of the Government Resolution dated 9.2.2009 shows that such works can be assigned to the Cooperative Labour Societies or unemployed engineers. In that view of the matter, we do not find substance in the contention of the petitioner. No indulgence is required under Article 226 of the Constitution of India.

9. Writ petition is dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

[NITIN W. SAMBRE]
JUDGE

grt/-