

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8310 OF 2023

Jyoti Prabhakar Khairnar ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

Mr. Eknath Dhokale for Petitioner.

Mrs. V.S. Nimbalkar, AGP for State- Respondent
No.3.

Mr. Abhijeet Khade i/by Mr. Satyajeet P. Dighe for
Respondent Nos. 5 and 6.

CORAM: MADHAV J. JAMDAR, J.

DATE: 11th October 2023

P.C.:

1. Heard Mr. Dhokale, learned Counsel appearing for the
Petitioner and Mr. Khade, learned Counsel appearing for
Respondent Nos. 5 and 6.

2. By the impugned order dated 19th October 2022 passed
by the Additional Collector, Nashik in Gram Panchayat Dispute
Application No. 87 of 2021, the Petitioner is disqualified from
the Membership of the Gram Panchayat, Jaulke, Taluka Yeola,
District Nashik and as she has been disqualified as Member of
Gram Panchayat therefore she is also disqualified as the

Sarpanch of the said village Panchayat. It is the contention of the contesting Respondents that she has violated Section 14 1(g) of the Maharashtra Village Panchayats Act, 1958 which reads as under:

14. Disqualifications.-- [(1) No person shall be a member of Panchayat, or continue as such, who

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the Panchayat, or in any contract with, by or on behalf of, or employment with or under, the Panchayat; or

3. The said order of the Additional Collector, Nashik is confirmed by the Additional Commissioner, Nashik Division, Nashik by order dated 19th May 2023 passed in Gram Panchayat Appeal No. 177 of 2022.

4. It is the contention of Mr. Dhokale, learned Counsel appearing for the Petitioner that amidst strict lock-down due to Covid-19, very urgent work was done on 7th April 2020 to take precautionary measures and therefore for that purpose Petitioner's husband- Respondent No. 7 spent money from his personal funds towards expenses incurred for said work. He further pointed out the Resolution of monthly meeting dated 7th April 2020 passed by the Gram Panchayat. The said

Resolution reads as under:

विषय क्रमांक ४ रू आलेल्या अर्जाचे वाचन करणे व त्यावर निर्णय घेणे ठराव क्रमांक ४ रू आजच्या सभेत सदरचा विषय चर्चेला आला असता श्री प्रभाकर रामभाऊ खैरनार यांच्या अर्जाचे सविस्तरपणे वाचन करण्यात आले. त्यांच्या अर्जानुसार त्यांनी ग्रा.पं हद्दीतील इलेक्ट्रीक मोटर दुरुस्ती आरक्षित बंधारा भरणेकामी जे सी बी लावणे तसेच गावातील कोरोना प्रतिबंधक फवारणी टी सी एल व औषध फवारणी केली असून सर्व खर्च त्यांनी अत्यंत निकडीची गरज म्हणून रोख स्वरूपात केला असून आलेला खर्च मला मिळावा अशी मागणी केली आहे

यावर महाराष्ट्र ग्रामपंचायत लेखासंहिता २०११ च्या तरतुदीनुसार ग्रामपंचायतीने बिलाप्रमाणे संबंधितास धनादेशाने रक्कम वर्ग करणे बंधनकारक आहे. असे मत ग्रामपंचायत सचिव यांनी मांडले तथापि असे असताना परिस्थितीनुरूप व गरजेनुसार बिल रक्कम ही प्रभाकर रामभाऊ खैरनार यांनी रोख स्वरूपात दिल्याचे त्यांनी लेखी दस्तऐवजाद्वारे सभेच्या निदर्शनास आणून दिले आहे

श्री प्रभाकर रामभाऊ खैरनार यांनी संबंधीत बिल धारकांना रोख रक्कम दिले असल्याचे खात्री पटवून आजच्या सभेच्या निदर्शनास आणून दिल्याने सदर बिलाची रक्कम ही श्री प्रभाकर रामभाऊ खैरनार यांना अदा करण्यास आजची सभा बहुमताने मंजुरी देत आहे

सूचक . श्रीमती मंदा मोतीराम पवार.

अनुमोदक . श्रीमती कल्पना पुंडलिक दराडे

ठराव बहुमताने मंजूर

(Emphasis added)

5. It is significant to note that the complaint is filed seeking disqualification of the Petitioner by the present Respondent No. 5, who is Member of the Gram Panchayat and Respondent No. 6 Santosh Karbhari Khairnar, husband of Smt. Manisha Santosh

Khairnar, the Member. It is significant to note that both Changdev Khanderao Jadhav and Smt. Manisha Santosh Khairnar were present in the meeting of Gram Panchayat dated 7th April 2020 and perusal of the above Resolution does not show that these two members have opposed the said Resolution. In any case, perusal of both the impugned orders do not show that this factual position is taken into consideration. Therefore, the impugned orders are perverse and liable to be quashed and set aside.

6. It is to be noted that for the benefit of villagers/ residents of said Gram Panchayat, very urgent action was required to be taken by the Petitioner in her capacity as the member and Sarpanch of the Gram Panchayat and for that purpose, urgent expenses were borne by the husband of the Petitioner.

7. Accordingly, the Writ Petition is allowed by setting aside the order dated 19th October 2022 passed by the Additional Collector, Nashik in Gram Panchayat Dispute Application No. 87 of 2021 as well as order dated 19th May 2023 passed by learned Additional Commissioner, Nashik Division, Nashik in Gram Panchayat Appeal No. 177 of 2022 and said Gram Panchayat Dispute Application No. 87 of 2021 is dismissed.

BHALCHANDRA
GOPAL DUSANE

(MADHAV J. JAMDAR, J.)

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2023.10.17
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