

Anand

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

WRIT PETITION NO. 11041 OF 2023

Smt. Vidya Hanumant Bhapkar

.Petitioner

Vs.

The State of Maharashtra & ors.

.Respondents

Mr. Vishwajeet Kapse i/b. Mr. Shailesh Chavan, Advocate, for the
Petitioner

Mr. P. G. Sawant AGP, for Respondent Nos. 1 & 2 - State

Mr. Sumit V. Khaire, Advocate, for Respondent No. 3

Mr. Nilesh Wable, Advocate, for Respondent No. 4

CORAM : MADHAV J. JAMDAR, J.

DATE : 15.12.2023

P. C.

1. Heard Mr. Kapse, learned Counsel appearing for the
Petitioner, Mr. Sawant, learned AGP appearing for Respondent
Nos. 1 & 2 - AGP, Mr. Khaire, learned Counsel appearing for
Respondent No. 3 and Mr. Wable, learned Counsel appearing for
Respondent No. 4.

2. The Petitioner is challenging the legality and validity
of the Order dated 11.04.2023 passed by the Additional
Divisional Commissioner, Pune Division, Pune in Gram
Panchayat Appeal No. 37 of 2022. The Additional Divisional
Commissioner by the said impugned Order dated 11.04.2023, set

aside the Order dated 01.11.2022 passed in Gram Panchayat Dispute Application No. 15 of 2021 by the Collector, Pune. By exercising the powers conferred under Section 14(1)(g) of the *Maharashtra Village Panchayats Act (Act No. III of 1959)*, Collector, Pune disqualified Respondent Nos. 3 & 4 to be members of the Gram Panchayat.

3. As far as Respondent No. 4 – Sou. Ashwini Shrikant Gade is concerned, the allegations against her are that some work was allotted to her husband and Rs. 1,500/- was paid on 15.07.2021, Rs. 2,000/- was paid on 31.07.2021 and Rs. 1,900/- was paid on 21.07.2021. The Collector, Pune has held that husband of Respondent No. 4 has been paid labour charges by the Grampanchayat and therefore, dis-qualified the Respondent No. 4, as contemplated under Section 14(1)(g) of the said Act. The Additional Divisional Commissioner by taking into consideration the explanation that the said work was urgent and was required to be done due to Covid 19 Pandemic, accepted the said explanation and set aside the order of the Collector, Pune, in so far as Respondent No. 4 is concerned. A perusal of the Order of the Collector clearly shows that the said explanation is not considered at all. The bills regarding the said work clearly show

that the same is concerned with cleanliness, sanitation, hygiene, repairs of the pipe lines, installation of water tank and plantation of trees. The Divisional Commissioner accepted the explanation that the work was urgently required to be done during Covid-19 Pandemic. The said work is labour work and the aggregate amount paid to the husband of the Respondent No. 4 for 3 days work is Rs. 5,400/-. Thus, a possible view of the matter is taken by the Additional Divisional Commissioner, which does not require interference under Article 227 of the Constitution of India. Accordingly, no interference is warranted as far as the decision with respect to Respondent No. 4 is concerned.

4. As far as case of Respondent No. 3 - Shri Navnath Jaisingh Jagdale is concerned, the allegation against him was that the Gram Panchayat has purchased sarees from "Shubham Saree Depot", Morgaon which is owned by his wife. A perusal of the Order passed by the Collector shows that the explanation given by him is not at all considered. Explanation of Respondent No. 3 shows that he has pointed out in the meeting of Gram Panchayat that the said shop belongs to his wife, as the lowest quotation was submitted by "Shubham Saree Depot", Morgaon and as the members insisted that in the interest of Gram

Panchayat, the sarees i. e. uniform dress of the employees of Gram Panchayat be purchased from the said “Shubham Saree Depot”, Morgaon, the Resolution was passed. Accordingly, the Gram Panchayat has acted on the resolution. It is his further contention that in fact, at that time, the Complainant i. e. the present Petitioner has supported the same. Mr. Kapse, learned Counsel appearing for Respondent No. 6 has relied on the objection dated 02.09.2021 of the Petitioner as well as two members taking objection to the said resolution. However, perusal of the Order of the Collector, by which Respondent No. 3 has been disqualified clearly shows that the Collector has not considered these aspects. A perusal of the Order of Additional Divisional Commissioner also shows that these aspects are not considered. The Additional Divisional Commissioner has given reasons which are contrary to Section 14(1)(g) of the said Act. The Hon’ble Supreme Court in the decision of ***Ravi Yashwant Bhoir Vs. Collector***, reported in (2012) 4 SCC 407 has considered the issue of removal of elected office bearer. The discussion in the said decision of ***Ravi Yashwant Bhoir (Supra)*** in the context of elected office bearer of a Municipal Council. The relevant observations are to be found from paragraph Nos. 22 to 35. It is a settled legal position that as far as removal of an

elected office bearer is concerned, strict compliance with principles of natural justice are required. In this particular case, explanation offered by Respondent No. 3 is neither considered by the Collector nor by the Additional Divisional Commissioner, who has passed the Order in favour of Respondent No. 3. Therefore, as far as Respondent No. 3 is concerned, the Order dated 01.11.2022 passed by the Collector, Pune as well as the Order dated 11.04.2023 passed by the Additional Divisional Commissioner are quashed & set aside. The Gram Panchayat Dispute Application No. 15 of 2021 is restored to the file of the Collector, Pune in so far as Respondent No. 3 is concerned. The Collector, Pune to decide the aforesaid Gram Panchayat Dispute Application No. 15 of 2021 by following the principles of natural justice and by giving full opportunity of hearing to the Petitioner and Respondent No. 3. The said exercise be done as expeditiously as possible and in any event **on or before 30.04.2024**.

5. The Writ Petition is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)