



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

Writ Petition (WP) No. 8340 of 2022

Mrs. Mayatai Amol Dhongade

Versus

The Collector, Washim and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.J.Gilda, Advocate for the petitioner.

Shri Shyam Bissa, AGP for the respondent no.1/State.

Shri H.V.Dhage, Advocate for the respondent no.2.

CORAM : ANIL S. KILOR, J.

DATED : 18th DECEMBER, 2023.

Heard.

2. The order of disqualification of the petitioner as Sarpanch of Gram Panchayat Pegaon, Tq. Mangrulpir, District Washim passed by the Collector, Washim under Section 36 of the Maharashtra Village Panchayats Act, 1959 (in short hereinafter referred as "Act, 1959"), is under challenge in this writ petition.

3. Since the disqualification is made under Section 36 of the Act, 1959, it is appropriate to refer to it, which reads thus:

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 meeting 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. After going through the above referred provision, it is evident that if the Sarpanch, or in his absence the Upa Sarpanch fails without sufficient cause, to convene the meeting of the Panchayat in any financial year according to the rules prescribed in that regard, he shall be disqualified for continuing the Sarpanch or, as the case may be, Upa-Sarpanch or for being chosen as such for the reminder of the term office of the members of the panchayat.

5. In the present matter, it is the case of the petitioner that offline meeting was held on 20th May, 2021 which was adjourned due to insufficient quorum and held the same online on 31st May, 2021.

6. The said case of the petitioner was not accepted by the Collector in light of the report submitted by the Deputy Chief Executive Officer of Zilla Parishad, who has recorded the findings in the report that no document was produced or no evidence was produced by the petitioner to show that on 31st May, 2021 the meeting was held.

7. The petitioner contrary to the said observations has pointed out from the record that the meeting was held on 31st May, 2021 and the minutes of the meeting was recorded and it was signed by five members of the Gram Panchayat. This fact is pointed out from the original record which is produced by the learned Assistant Government Pleader on the direction of this Court.

8. Thus, it cannot be said that there was no document available on record to show that the adjourn meeting was held on 31st May, 2021. Hence, I have no hesitation to hold that the findings recorded by the Collector that the petitioner has not produced any record in support of her case that on 31st May, 2021 the adjourned meeting was held, is contrary to record.

9. Even from the record, it is apparent that the report of the Deputy Chief Executive Officer is contrary to the record. Moreover, if there was any irregularity committed in holding the meeting online, that would not attract any disqualification under Section 36 of the Act, 1959 as it cannot be said that the petitioner failed to convene the meeting.

10. The above referred factual aspects go to the root of the matter to decide whether any disqualification

attracts in this case against the petitioner under Section 36 of the Act, 1959.

11. In the circumstances, as the Collector, Washim has failed to appreciate the record in right prospective, I am of the opinion that since disqualification is a serious matter and no one shall be disqualified in a casual manner contrary to the provision of law and procedure prescribed, it is necessary to remand the matter back to the Collector, Washim to decide the same afresh after appreciating and considering the record available. Accordingly, I pass the following order.

- i. Writ petition is partly allowed;
- ii. The order passed by the Collector, Washim dated 12th December, 2022 disqualification of the petitioner under Section 36 of the Act, 1959 is hereby quashed and set aside.
- iii. The matter is remanded back to the Collector, Washim to decide the same afresh after hearing both the parties.
- iv. The parties are directed to appear before the Collector, Washim on **4th January, 2024** at 11 am.
- v. The Collector, Washim is directed to take a decision afresh within three months from the date of appearance of the parties.

[ANIL S. KILOR, J.]