



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

**WRIT PETITION NO. 3881 OF 2024
WITH
WRIT PETITION NO. 3885 OF 2024**

* * * * *

WRIT PETITION NO. 3881 OF 2024

Namdev s/o. Sahebrao Lobhe
Age. 41 years, Occ. Agri./Surpanch,
Gram Panchayat, Kanegaon,
R/o. Kanegaon, Tq. Lohara,
Dist. Dharashiv.

.. Petitioner

VERSUS

1. Balwant Sambhaji Jagtap
Age. 60 years, Occ. Agri.,
R/o. Kanegaon, Tq. Lohara,
Dist. Dharashiv.
2. Gram Sevak,
Gram Panchayat, Kanegaon,
Tq.Lohara, Dist. Dharashiv.
3. Block Development Officer,
Panchayat Samiti, Lohara,
Dist. Dharashiv.
4. The Collector,
Dharashiv, Dist. Dharashiv.

.. Respondents

**WITH
WRIT PETITION NO. 3885 OF 2024**

Namdev s/o. Sahebrao Lobhe .. Petitioner
Age. 41 years, Occ. Agri./Surpanch,
Gram Panchayat, Kanegaon,
R/o. Kanegaon, Tq. Lohara,
Dist. Dharashiv.

VERSUS

1. Amol s/o. Pandurang Patil .. Respondents
Age. 45 years, Occ. Agri.,
2. Nitin s/o. Nagnath Patil,
Age. 43 years, Occ. Agri.,
3. Balwant Sambhaji Jagtap,
Age/ 60 years, Occ. Agri.,
4. Limbraj s/o. Tukaram Patil,
Age. 40 years, Occ. Agri.,
5. Pandurang Waman Kadam,
Age. 40 years, Occ. Agri.,

All R/o. Kanegaon, Tq. Lohara,
Dist. Dharashiv.
6. Gram Sevak,
Gram Panchayat, Kanegaon,
Tq.Lohara, Dist. Dharashiv.
7. The Collector,
Dharashiv, Dist. Dharashiv.

Mr.V.D. Salunke, Advocate for the petitioner.
Mr.V.S. Badakh, AGP for the respondent-State.
Mr.Dattatray J. Ghodake h/f. Mr. Amol T. Jagtap, Advocate for private respondents.
Mr. S.B. Munde, Advocate for respondent No.3 in WP3881/2024..

CORAM : KISHORE C. SANT, J.
RESERVED ON : 24.09.2024
PRONOUNCED ON : 06.12.2024

J U D G M E N T :-

01. Both these petitions are filed by a Surpanch against whom disqualification proceedings were taken out before the learned Collector and the same came to be allowed by the learned Collector, Osmanabad. He is disqualified from being a Member of the Grampanchayat and consequently as Surpanch of village Kanegaon, Tq. Lohara, by his judgment and order dated 02.04.2023.

02. The facts in short giving rise are that the petitioner contested election to the post of Member held in January, 2021. After the election of the Members, the Members unanimously elected the present petitioner as Surpanch on 08.02.2021. However, later-on, respondent No.1 filed disqualification proceeding bearing No. 790 of 2023 before the learned Collector for declaration that the petitioner has incurred disqualification as he failed to conduct regular monthly meetings of Grampanchayat. The application was thus filed under section 36 of the Maharashtra Village Panchayats Act, 1985. It is alleged that the petitioner failed to

take meetings for the months of May, 2021, July, 2022 and November, 2022 and thus has incurred disqualification.

03. So far as writ petition No. 3885 of 2024 is concerned, the proceeding was initiated for disqualification as the petitioner failed to hold meetings under section 7 of the Act. The petitioner has failed to hold special meetings on 15.08.2022 i.e. independence day. No meetings were held in the month of May, 2021, January, 2022, March, 2022, August, 2022 and March, 2023. In a financial year from April 2022 till March, 2023, four Gramsabha meetings were to be held, however, no such Gramsabha meetings were held.

04. It was the defence of the petitioner in WP No. 3881 of 2024 that for May, 2021, there was Corona pandemic. There was Notification issued under section 144 of the Criminal Procedure Code (Cr.P.C.) prohibiting gathering of people for the period from 02.05.2021 to 15.05.2021 and from 15.05.2021 to 24.05.2021. It is for this reason no meetings could be held. So far as meeting for the month of July, 2022 is concerned, it is stated that the learned Collector, Osmamabad had issued Notification under section 144 from 30.06.2022 till 31.07.2022. As regards meeting of November, 2022 is concerned, it is stated that the

learned Collector had issued Notification under section 144 of the Cr.P.C. prohibiting gathering from 04.11.2022 till 30.11.2022. It is stated that because of these reasons the meetings could not be held. He produced on record copies of the notifications issued by the District Magistrate. It is case of the petitioner that except these three meetings, all meetings were held. The petitioner, thus, prayed for rejecting the dispute.

05. The learned Collector called for a report from Block Development Officer. The learned Collector considering the report and hearing the parties allowed the dispute. The petitioner challenged the decision of the learned Collector and approached this Court by filing Writ Petition Nos. 15194 and 15203 of 2023 for directions to the parties to consider the explanation submitted and to lead further evidence before the learned Collector. The impugned order by the learned Collector was set aside and the matter was remitted back to the learned Collector.

06. After remand, the parties led evidence before the learned Collector. Present petitioner got himself examined. He also examined other witnesses in his favour. He examined one Sopan Akele, BDO, Nilanga, District Health Officer Ashok Kathare, Mahadeo Bhil working as Gram Sevak, Grampanchayat Kanegaon in the proceeding. It has come

in the evidence of this petitioner that because of the reasons stated, no meetings were held. In the evidence of BDO, it has come that there were directions to hold online meetings. The said decision was taken by the Village Development Officer. It has come that the second wave in April, 2021 was more severe. The District Health Officer stated about period in which Corona was on its peak. He stated that in Kanegaon, there were 80 positive cases found and out of those cases six persons died. The SDM was also examined. He stated that in village Kanegaon, there was dispute between Dalit and Savarna (upper caste) people. There was Notification under section 144 of Cr.P.C. from 29.04.2022 till 31.10.2023. In the cross it is taken that there was no restriction of holding Gramsabha meeting. From 02.04.2023 till 30.04.2023, orders were issued maintaining social distance. Mahadeo Bhil in his evidence stated that total six persons died during Corona period in second wave in 2021. It is taken that in the village there is no internet connectivity. He stated that the meetings except for the Notification period under section 144 Cr.P.C., were held.

07. On this evidence and hearing the parties, the learned Collector held that the explanation offered by the petitioner is not sufficient. He, therefore, observed that even during period of Covid,

some other meetings were held. The SDM had stated in his evidence that there was no restriction for holding Gramsabha meeting. There are no applications filed by the Surpanch for such leave. Thus, the dispute came to be allowed.

08. It is submitted that the learned Collector failed to appreciate that there is sufficient reason shown for not holding Gramsabha meetings from May 2021 to July, 2021. It has clearly come on record that for the said period there was notification under section 144 of the Cr.P.C. issued by the learned Collector. Thus, the reasons are sufficient. He further submits that in other months, meetings are regularly held and there is no dispute. Though online meetings were permitted, however, it has come in the evidence of the Village Development Officer that there is no internet connectivity in the village. He thus submits that the learned Collector has failed to appreciate that there is sufficient reason for not holding meeting. He prays for setting aside the impugned order by allowing the writ petitions.

09. The learned Advocate for respondent No.1 vehemently opposed the writ petition. He submits that the petitioner has failed to point out that at any point of time, there was any restriction on holding

the meetings. The meetings by online mode were permitted. The meetings could have been held in that mode. Thus, the failure is on the part of the petitioner. The explanation offered is not sufficient. The bar was only for holding gathering within radius of 100 meters from the temple where there was tension between two groups. The failure to hold even a single meeting incurs disqualification. He, thus, prays for rejection of the writ petition.

10. The learned AGP supports the impugned order. He submits that the three meetings would have been held like other meetings. The BDO while submitting the report has considered all these aspects and has submitted the report. He, thus, prays for dismissal of the petition.

11. In Writ Petition No. 3885 of 2024, it was the defence of the petitioner that the enquiry was pending before the BDO and the same is still pending. The dispute is also pending before the CEO, Dharashiv about the said meetings. By suppressing these facts, application is filed before the learned Collector. In January, 2022, meeting was held, however, there was no sufficient coram. Thereafter, meeting was not held by taking into consideration Corona pandemic and in view of the safety of the people in the Grampanchayat. In April, 2022 there were 10

deaths in the village. More than 50 Covid positive cases were found and for these reasons, no meeting was held. One person from Dalit community had committed suicide. A case was, therefore, lodged under section 306 of the IPC and under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. For this reason, again there was notification issued under section 144 of the Cr.P.C. As regards, the meeting in the month of April, 2022, meeting was not held because of Corona Pandemic as holding Gramsabha meetings during said period would have been against public health. There were also Notifications issued by the learned Collector under section 144 of the Cr.P.C. So far as meeting in April, 2023 is concerned, the Gramsevak was deliberately not obeying orders of the petitioner and he did not issue notice for monthly meeting. Even communication was issued to the BDO seeking direction to Village Development Officer to hold meeting. Still Gramsevak did not issue notice. The petitioner produced on record Notifications issued by the Collector.

12. The petitioner argued on similar lines as in Writ Petition No. 3881 of 2024. The evidence recorded in the proceedings No. 790 of 2023 was also to be considered in proceeding No. 962 of 2023. The learned Advocate for the petitioner adopts arguments advanced in Writ

Petition No.3881 of 2024. The respondents also adopted argument in Writ Petition No.3881 of 2024.

13. Looking to the scheme of section 7 of the Act, it is a duty of the Surpanch and UpSurpanch to hold at least four general meetings in the village in a financial year, whereas in view of Rule 3 of Maharashtra Grampanchayat (Meeting) Rules, framed under section 36 requires that every month meeting needs to be held of the Grampanchayat. For not holding meetings without sufficient reasons, the consequence provided is to declare the Surpanch as disqualified. In both these sections the learned Collector has to consider as to whether reason stated for not holding the meetings are sufficient. If the learned Collector is satisfied that for sufficient reasons the Surpanch failed to hold meeting then in that case, there is no question of declaring Surpanch disqualified. This is natural because if the meetings are not held for reasons beyond control of Surpanch, then he could not be penalized for the same. Holding of meeting is a feature showing smooth functioning of the Grampanchayat in democratic way by keeping democratic principles in mind. It is, therefore, mandatory to hold such meetings except for sufficient reasons. In the present case there is no dispute that some of the meetings were not held. It only needs to be seen as to whether those are not held for

sufficient reasons.

14. The petitioner has relied upon a judgment in the case of **Pralhad Bhikaji Bargaje Vs. State of Maharashtra & Ors., 2016 (6) Mh.L.J.900**, in support of his submission in Writ Petition No. 3881 of 2024. This Court in the said case has held that in view of section 7(1) of the Act, the burden to show that there was sufficient cause for not holding Gramsabha is on the Surpanch. If no sufficient cause is shown, then in such case, disqualification of Surpanch is not to be interfered with by the High Court. There is no dispute about said proposition as it is requirement of law i.e. section 7 of the Act.

15. Learned Advocate for the respondent relied upon judgment in the case of **Kusum Chandrakant Kachare Vs. State of Maharashtra, 2019 (1) BomC.R. 467**. In the said judgment, it is held that under sections 36 and 38 of the Act, disqualification is attracted in case of failure to conduct monthly meetings. In that case the monthly meeting was not held in February, 2017. Gramsabha meeting dated 01.05.2017 was adjourned *sine-die*. In that view the proceeding was filed before the learned Collector. The learned Collector held the petitioner therein has incurred disqualification under sections 36 and 38 of the Act. In that

case, it was held that no case was made out to call for interference.

16. Coming to case in hand, from the annexures of the petitions, it is clearly seen that there were various orders passed from time to time by the learned Collector under section 144 of the Cr.P.C. There were also orders passed imposing curfew and therefore the meetings for May, 2021, July, 2021 and November, 2022 were not held. This Court finds that the said reason need to be taken to be sufficient reason for not holding the meetings. As stated, though online meetings were allowed to be held, however, from the evidence of the Gramsevak, it is clear that there was no internet connectivity in the village.

17. Sufficiency of the cause needs to be viewed from the angle of the Surpanch. Holding meetings in other months inspite of difficulties cannot be said to be not sufficient cause for not holding meetings in a particular month. The learned Collector has to see as to why meeting is not held. It is not for the learned Collector to see whether meeting could have been held inspite of the difficulties. Though sufficiency of the cause in such cases would be a matter of subjective satisfaction of the authorities depending upon facts and circumstances of each case. The sufficiency of cause is a defence specifically made available to

democratically elected representative. Making democratically elected representative unseat for any reason should be done carefully and not as a matter of routine. The law has not provided disqualification for mere reason of not holding meetings. In this case, this Court finds that the learned Collector has held present petitioner disqualified only because of not holding the meeting. This Court, therefore, finds that the Collector has not applied its mind properly. Therefore, Writ Petition No. 3881 of 2024 deserves to be allowed.

18. So far as Writ Petition No. 3885 of 2024 is concerned, this Court finds that the petitioner is held to have incurred disqualification, under section 36 of the Village Panchayats Act. From the record it does appear that the defence of the petitioner that the Gramsevak i.e. Village Development Officer was not deliberately obeying orders of the Surpanch and therefore notices were not issued for holding Gramsabha meetings.

19. So far as Writ Petition No. 3885 of 2024 is concerned, meeting in the month of April, 2023, only reason assigned by the petitioner is that the Gramsevak did not obey his order and he was required to send communication to the Block Development officer seeking direction to Village Development Officer to call for meeting.

20. Considering facts in this case, it can hardly be appreciated that the Surpanch could not hold meetings as Gramsevak did not obey his orders. Merely, sending letters to BDO seeking directions to the Gramsevak is not sufficient to show that the Surpanch was unable to get work done from Gramsevak. Nothing is brought on record to show that the Gramsevak, inspite of order by the Surpanch has not called a meeting. Something more is required to be shown, such as for some reasons beyond control of the Surpanch the meetings could not be held or that because of some reasons, the Surpanch or the Gramsevak were prevented from holding such meetings. In the present case, no such case is made out. The explanation offered for not holding the meeting is not at all convincing. Thus, this Court finds that the learned Collector has rightly held against the petitioner in this case. No case is made out to call for interference at the hands of this Court under writ jurisdiction.

21. In view of above, the following orders.

- (i) Writ Petition No. 3881 of 2024 is allowed. The judgment and order dated 02.04.2024 passed by the learned Collector, Dharashiv in Application No. 790 of 2023 is quashed and set aside.

- (ii) Writ Petition No. 3885 of 2024 is dismissed.
- (iii) The writ petitions are accordingly disposed off with no order as to costs.

[KISHORE C. SANT, J.]