

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11439 OF 2022

Anusaya Balaji Bhawe

VERSUS

The Collector Nanded And Others

...

Advocate for the Petitioner : Mr. Deshmukh Umakant B.

AGP for Respondent/State : Mr. P.D. Patil

Advocate for Respondent No.4 : Mr. S.B. Pulkundwar

Advocate for Respondent No.3 : Mr. M.D. Swami

...

CORAM : S.G. MEHARE, J.

DATED : APRIL 24, 2024

PER COURT:-

1. Heard learned counsel for the petitioner and learned counsel for the respondents.
2. The petitioner was a Sarpanch of the Village Panchayat, Sawargaon. She received the notice of the Collector dated 07.06.2022 calling upon her to appear before him and produce the document or make the submissions. She appeared before the Collector. Submitted her reply with a bunch of documents. She has explained that due to Covid-19 pandemic, she could not convene one Gram Sabha of August 2021. However, the notice of Collector was defective and without any charge. It is her case that the Collector did not consider the documents and her defence. The Collector passed the impugned order without assigning any reason. He mechanically relied upon the report of the Block Development Officer. The

petitioner has also objected that the Block Development Officer had illegally relegated his power to the extension officer. The report was self-speaking that the record was not made available to him. Only on non-supplying him the record, he drew inference that the meetings were not held. During her tenure, around six Village Panchayat Gram Sevaks were transferred. She had explained that she asked for time to the extension officer to produce the documents as it is lying with the previous Gram Sevaks. But he hastily drew the inference only on the basis of non-production of the record. After appearing before the Collector, she had produced all relevant material proving that she did not deliberately avoided the Gram Sabha. Her explanations were genuine. At the relevant time, Covid-19 pandemic was heavily spread in the village. The government had issued the directions and declared the lock-down. The offices functioning were closed down. The situation was beyond her control. She could not take the risk of the life of the villagers for performing her duties. A just and reasonable cause was there for not convening the Gram Sabha in which other voter has to participate.

3. Learned counsel for the petitioner submits that the notice calling upon the petitioner to appear before the Collector dated 07.06.2022 is defective. It does not mention the charges. If such defective notice is served upon the Village Panchayat, the entire proceeding vitiates. To bolster his arguments, he relied on the case of

Pratibha Sanjay Hulle Vs. Additional Collector and Ors, 2010(4) Bom.

C.R. 700. The Hon'ble Supreme Court confirmed this view. Thereafter, there are series of judgment on similar issue holding that the notice for action under Section 7 and 36 of the Maharashtra Village Panchayat Act should mention the charges. Removing democratically elected officers is a stigma. On such a vague allegations, democratically elected Sarpanch should not be thrown away. He also vehemently argued that the order of the Collector is without reason. He just mechanically reproduced the cases of both parties and not discussed a single document and the submissions. He mechanically believed the report of the Block Development Officer which was itself defective and passed the impugned order.

4. Per contra, learned counsel for contesting respondent no.3 vehemently argued that after receipt of notice, the petitioner appear before the Collector. The copy of plaint was served upon her. She learnt about the charges. She had filed a reply in detail with documents. If her case is considered, it cannot be said that she was not made aware of the charges levelled against her. The Block Development Officer has correctly got the inquiry done from the extension officer. The record of the proceeding books was not available. Therefore, the correct inference was drawn that no meetings were held. He would submit that the complainant is not at fault in complying with the contents of the notice issued by the

Collector. Ample material was available before the Collector to hold that the petitioner failed to convene the Gram Sabha which is the mandate of law. There were no reasons beyond her control in convening the Gram Sabha. The impugned judgment and order of the Collector is legal, proper and correct.

5. It appears from the documents placed on record that though the report of the Block Development Officer shows that the petitioner failed to convene the meeting for the year 2021 and 2022, she had conducted two Gram Sabha's. The world knows that during that period, the Covid-19 pandemic was highly spread and the entire world was lock-down. As per the directions of the Hon'ble Supreme Court and the Government, many offices were closed. Covid-19 pandemic was spread largely all over the villages and towns. It appears that the Block Development Officer has unnecessarily got the report prepared from the extension officer. The report of the Block Development Officer reveals that since the documents/proceeding books were produced, an inference could be drawn that no meetings were held. There is nothing mentioned in the report what action he has taken against the Gram Sevaks for not producing the documents. In view of the situation, the explanation of the petitioner that since there was transfer of six Gram Sevaks during her tenure, the record may be with the earlier Gram Sevak. However, nothing is discussed in

the impugned order. Not a single reason on the defence has been mentioned in the petition.

6. The impugned order of the Collector is apparently without reasons. Therefore, it is no order in the eye of law. This Court in the case of Pratibha (supra) took a view that the notice under Section 7 and 36 should mention the charges. However, the government has not created the prescribed proforma till date. Be that as it may, the petitioner has proved that the notice was defective and the impugned order of the Collector is without reasons. Hence, the petition is liable to be allowed. Hence, the following order :

ORDER

- (i) The petition is allowed.
- (ii) The impugned order of the District Collector, Nanded passed in Case No.2022/G.B./Desk-1/GPN/Appeal-33 dated 10.11.2022 stands quashed and set aside.
- (iii) The matter is remitted to the District Collector, Nanded for complying with the provisions of law. He should grant an opportunity to both sides and decide the matter afresh strictly as per the provisions of law.
- (iv) The parties are directed to appear before the District Collector, Nanded on 07.05.2024.

(S.G. MEHARE, J.)