



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 880 OF 2023

Piraji Doulaji Gaikwad

VERSUS

The Collector Nanded And Others

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Advocate for the Petitioner : Mr. U.B. Deshmukh

AGP for Respondent 1 : Mr. A.V. Lavte

Respondent No. 2- Served.

Advocate for Respondent no.3 : Mr. G.G. Suryawanshi

Advocate for Respondent no.4 : Mrs. Y S Thorat

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 11, 2024

ORDER :-

1. Petitioner impugns the order dated 10.11.2022 passed by the learned Collector, Nanded in dispute No.2022/G.B./Desk-1/GPN/Appeal-13.

2. The petitioner contends that general election of village Panchayat took place in the year 2021. On 11.2.2021 respondent no.3 has been elected as Sarpanch. Respondent no.3 was under obligation to conduct monthly meeting of panchayat as well as Gramsabha in terms of section 7 and 36 of the Maharashtra Village Panchayats Act, 1958 (for short MVP Act). However, respondent no.3 without sufficient cause failed to conduct mandatory meeting and incurred disqualification.

3. Petitioner raised dispute before respondent no.1 pointing out default in conduct of meetings on the part of respondent no.3. In pursuance of dispute raised by the petitioner, District Collector caused inquiry through Block Development Officer, Panchayat Samiti Biloli, who submitted report which depicts that petitioner failed to conduct meetings as per Rules. According to the petitioner, although respondent no.3 had no justifiable reason in making default or to follow the mandate of law in terms of section 7 and 36 of the MVP Act, respondent no.1 rejected the dispute on erroneous counts.

4. Mr. Deshmukh, learned advocate appearing for the petitioner submits that the report of B.D.O. stipulates that petitioner has not conducted Gramsabhas as per schedule. The Gramsabha that was scheduled in August, 2021 is conducted in September, 2021. Similarly, Gramsabha of November, 2021 is conducted on 3.12.2021. He would submit that, although, report of the B.D.O. states about conduct of monthly meeting in tune with mandate under section 36 of the Act, it is based on false record. In support of his contentions, he relies upon judgment of this court in case of ***Chaitanya Raosaheb More Vs. The Collector and others*** in writ petition no.228 of 2021 dated 9.12.2021 to contend that the Collector is supposed to exercise quasi judicial powers in vigilant manner and shall not overlook statutory provisions

contained in section 7 of the Act with Rule 3 of the Meeting Rules. He would therefore contend that a District Collector has erroneously rejected the dispute.

5. Heard learned counsel appearing for respective respondents.

6. Having considered the submissions advanced, it is apparent that, the petitioner has been elected as Sarpanch on 11.2.2021. It was the period of Covid Pandemic situation. In the month of April 2021, the State of Maharashtra had issued circulars and granted stay to the Gramsabha. During the month of April to May 2021, large number of Corona positive patients were detected in village Bawalgaon. One of the villager lost his life on 5.5.2021. It appears that Gramsabhas were conducted on 12.9.2021, 3.12.2021, 4.2.2022 and 12.2.2022. Learned Collector observed in the impugned order that default in conduct of meeting of August 2021 is for sufficient reason. The respondent cannot be blamed for that.

7. Although, learned advocate Mr. Deshmukh is right in contending that the mandate under section 7 of the Act and Rule 3 of the Meeting Rules needs to be given full effect, however, provision contemplating disqualification for default by the Sarpanch or Upsarpanch is flexible. The duty to conduct the Gramsabha though mandatory in nature, brings home disqualification only

when failure is without sufficient cause. In present case, default appears to be unintentional and for sufficient cause emerging from extraordinary circumstances. The view taken by the Collector in the facts and circumstances of the case need not be interfered with in writ jurisdiction. Hence, no case is made out to cause interference in the impugned order. Writ Petition stands dismissed. No costs.

(S. G. CHAPALGAONKAR)
JUDGE

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