

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3504 OF 2024.

Yogesh Sarjerao Bansode

...Petitioner.

Versus

The Collector Pune And Ors

...Respondents.

Mr. Sushant Prabhune a/w Mamta Pandey for the Petitioner.

Ms. V. S. Nimbalkar AGP for the Respondent-State.

Mr. D. V. Sutar a/w Mr. Shailesh chavan for the Respondent Nos. 4,5,7,9, 10 & 11

Coram : Sharmila U. Deshmukh, J.

Date : December 2, 2024.

P. C. :

1. Heard.

2. By this Petition, the challenge is to the order dated 4th February 2024, passed by the Collector in Grampanchayat Dispute No. 96 of 2023, rejecting the Dispute Application filed against the No Confidence Motion passed against the Petitioner by majority of 11:1.

3. The facts of the case are that the elections for Malad Grampanchayat, Taluka Baramati, District Pune were held and the Petitioner was elected as Sarpanch. On 16th May 2023, requisition for No Confidence Motion was moved against the Petitioner and the meeting was scheduled on 22nd May 2023, in which the Motion was carried with the majority of 11:1. Being aggrieved, the Petitioner filed Grampanchayat Dispute No. 96 of 2023, before the Respondent No. 1-

Collector under Section 35(3B) of the Maharashtra Village Panchayat Act, 1975 (for short the "***Village Panchayat Act***").

4. In the dispute, the contention raised by the Petitioner was that six members were not qualified to sit and vote at the said meeting, as they had not submitted their Caste Validity Certificate under Section 10 (1A) of the Village Panchayat Act. The Grampanchayat Dispute came to be resisted by the Respondents who had voted in favour of the No Confidence Motion. Subsequently by order dated 4th February 2024, the dispute came to be rejected leading to the filing of the present Petition.

5. Learned Counsel appearing for the Petitioner would submit that the primary submission raised by the Petitioner was as regards the disqualification as six members of the Grampanchayat were not entitled to sit and vote in the Meeting as they had not submitted the Caste Validity Certificate. Pointing out to the reply filed by those six members to the Grampanchayat Dispute, he submits that these members sought to take support of the extension order dated 10th July 2023, and there is no specific averment that they had submitted the Caste Validity Certificate. He would further submit that in response to the Petitioner's RTI Application the Naib Tehsildar had informed that the Caste Validity Certificate by the six Respondents had not been submitted. He would further submit that despite the primary

objection being taken as regards the disqualification of six members, the order of the Collector does not deal with the said submission and thus there is no reasoned order.

6. Learned Counsel appearing for the private Respondents would submit that three persons had submitted the Caste Validity Certificate on 6th August 2021, and one person has submitted on 27th July 2023, which is evident from the Report of the Tehsildar dated 29th July 2024. He submits that the Naib Tehsildar has given wrong information under the RTI that the Caste Validity Certificate has not been submitted. He submits that once the necessary requisition under Section 35 of the Village Panchayat Act have been complied, there is no warrant for interference under Article 227. Drawing support from the decision of the Apex Court in the *case of Garment Craft Vs. Prakash Chand Goel*¹, he submits that in exercise of powers under Article 227, the supervisory jurisdiction cannot be exercised to correct every error of fact or law, when final finding is justified or can be supported. He submits that as the Collector has considered the submissions and has disqualified the Petitioner, no interference is warranted under Article 227 of the Constitution of India.

7. I have considered the submissions and perused the record.

8. In the Grampanchayat Dispute filed by the Petitioner who

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is democratically elected Sarpanch, a specific objection was raised to the passing of the No Confidence Motion on the ground that six members who had voted in favour of the No Confidence Motion were not qualified to sit and vote for non compliance of Section 10 (1A) of the Village Panchayat Act as they had not submitted the Caste Validity Certificate. In event, at the time when the meeting was held, the Caste Validity Certificate had already been submitted then the obvious reply to the Grampanchayat Dispute would be the factum of submission of the Caste Validity Certificates. Instead paragraph 17 of the reply filed by the Respondents to the Grampanchayat Dispute seeks to rely on the Maharashtra temporary extension of period for submitting Caste Validity Certificate Act of 2023 to contend that there is extension of time granted for submitting the Caste Validity Certificate and therefore the members were not disqualified at the time of passing of the No Confidence Motion. Though specific contention was raised by the Petitioner, perusal of the Order of the Collector would indicate that the Dispute has been adjudicated in cursory manner by only taking into consideration whether the requisite quorum of 2/3rd was met in the meeting held on 22nd May 2023.

9. Learned Counsel appearing for the private Respondents or learned AGP is not able to point out any finding in the impugned order of the Collector dealing with the submissions raised by the Petitioner

as regards the disqualification of the six members. It is undisputed that during the proceedings before the Collector, the position was that by way of RTI information the Naib Tehsildar had informed the Petitioner that six persons have not submitted the Caste Validity Certificate by communication dated 27th June, 2023. Though it is stated that there is Report of 29th July 2024, by the Tahsildar stating that the Caste Validity Certificate have been submitted, obviously the same was not placed for consideration before the Collector as impugned order had been passed on 4th February 2024. Therefore, for the purpose of considering the present proceedings, the subsequent Report of 29th July 2024, supporting the submissions of the Caste Validity Certificate cannot be considered. The Collector was required to take into consideration the material placed on record at the time of adjudicating the Grampanchayat Dispute and considering the specific objection which was raised by the Petitioner was enjoined to consider the said objection and if necessary to call for report from the Tehsildar or any other concerned Authority in order to verify whether the Caste Validity Certificate were infact submitted by these six members entitling them to sit and vote at the No Confidence Motion meeting. No such exercise has been conducted by the Collector and the impugned order does not deal with the said objection at all.

10. By reason of failure on part of the Collector in dealing with

the said submission, the Petitioner who was duly elected Sarpanch has been held to be disqualified. Though the members of the Grampanchayat are entitled to move the motion of no confidence, the fact remains that the disqualification can occur only in accordance with the procedure prescribed under the Village Panchayat Act. It was necessary for the Collector to take into consideration all the objections raised which has not been done in the present case. Reliance has been placed on the case of ***Garment Craft (supra)*** to convince this Court to not exercise the jurisdiction under Article 227. Paragraph No. 15 of the said decision clearly states that the supervisory jurisdiction is not to correct every error of fact or even legal flaw when the final finding is justified or can be supported. However, the said decision further holds that the jurisdiction exercised is in the nature of correctional jurisdiction to set right dereliction of duty or flagrant abuse, violation of fundamental principles of law and justice and it is axiomatic that such discretionary relief has to be exercised to ensure there is no miscarriage of justice.

11. In the present case as a duly elected Sarpanch is sought to be disqualified and the Collector has failed to deal with the objection raised as to entitlement of the members to sit and vote at the meeting, there has been grave miscarriage of justice warranting interference under Article 227 of Constitution of India.

12. In light of the above, the impugned order dated 4th February 2024, is hereby quashed and set aside.

13. The matter is remitted to the file of the Collector to be considered afresh. The Collector is expected to consider all submissions which are raised by the parties and to give reasoned findings. Liberty to the parties to place additional material on record.

14. All contentions of both the parties are expressly kept open. Parties to appear before the Collector on 9th December 2024, at 11.30 am.

15. The Petition is allowed in the above terms.

[Sharmila U. Deshmukh, J.]