



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

WRIT PETITION NO.911 OF 2023

Chandrashekhar S/o Prabhakar Jambhulkar,
age about 40 Yrs, Occ: Agriculturist,
R/o Galvha, at post Karadgaon,
Tah. Bahulgaon, Dist. Yavatmal. **PETITIONER**

..V E R S U S..

1. State of Maharashtra, through its
Secretary, Rural Development Ministry,
Mantralaya, Mumbai – 32.
2. State of Maharashtra, through its
Collector Yavatmal, Dist. Yavatmal.
3. Block Development Officer, Panchayat Samiti
Babhulgaon, Zilla Parishad Yavatmal,
Dist. Yavatmal.
4. Smt. Sarika W/o Vikas Bodele,
age about 35 Yrs, Occ: Household,
R/o Galvha, at post Karadgaon,
Tah. Bahulgaon, Dist. Yavatmal.
5. Smt. Bhumika W/o Ravindra Kukde,
age about 39 Yrs, Occ: Household,
R/o Galvha, at post Karadgaon,
Tah. Bahulgaon, Dist. Yavatmal.
6. Secretary, Gram Panchayat Galvha,
at post Karadgaon, Tah. Bahulgaon,
Dist. Yavatmal.
7. Kishor Namdeorao Damedhar,
(New Elected Sarpanch),
aged Major, Gram Panchayat, Galvha,
at. Post. Karadgaon, Tah. Babhulgaon,
Distt. Yavatmal. **RESPONDENTS**

Amended as
per Court's
order dated
27.07.2023

Mr. Saurav M. Golhar, Advocate with Mr. Rohit P. Masurkar,
Advocate for Petitioner.

Mr. A. G. Mate, AGP for Respondent Nos.1 and 2/State.

Mr. P. S. Wathore, Advocate for Respondent Nos.4 and 5.

CORAM: **BHARAT P. DESHPANDE, J.**

DATE: **22nd MARCH, 2024.**

ORAL JUDGMENT:

Heard.

2. Rule. Rule is made returnable forthwith.

3. Heard finally with the consent of the learned counsels
for the respective parties.

4. The petitioner being the Sarpanch of Village
Panchayat Galvha Panchayat Samiti Babhulgaon, District Yavatmal
was removed from the post of Sarpanch vide order dated
17.08.2022 passed by the Additional Collector, Yavatmal only on
the ground that he failed to convey the monthly meeting of July,
2021.

5. The learned counsel for the petitioner submits that
the petitioner while working as Sarpanch, was not assisted
properly by the Secretary of the said village Panchayat and in spite
of writing letters to the Block Development Officer, Zilla Parishad,

Yavatmal complaining about the absence of the Secretary as well as non co-operation, no action was taken against the said Secretary.

6. The learned counsel for the petitioner submits that the report was called by the Additional Collector, Yavatmal from the Block Development Officer, Panchayat Samiti, Babhulgaon. In this report the Block Development Officer categorically pointed out that the Secretary was absent in the month of July, 2021 for various dates and it was the duty of the Secretary to convene the meeting. However, he failed to do so.

7. The learned AGP would submit that even though the Secretary was absent for few days in the month of July 2021, the report of the Block Development Officer shows that for the remaining period in the month of July, 2021 said Secretary was on duty. He submits that it was the duty of the Sarpanch also to convene the monthly meeting. On failure to do so, the action was taken against him for disqualification which cannot be interfered with.

8. The complaint filed by the petitioner against the Secretary is dated 19.04.2021 addressed to Block Development Officer, Yavatmal wherein it has been clearly emphasized that the

Secretary is remaining absent and is not co-operating with the elected members for the purpose of conducting meeting. There are also allegations against the said Secretary that he was found roaming in the village in intoxicated manner and is not spending the amount allotted under the 14th Finance Commission. There are also allegations against the Secretary is not submitting the accounts whenever asked by the elected members. On 17.04.2021 when the special meeting was called, the Secretary remained absent and he switched off his mobile phone so as to none can contact him. These are some of the allegations as found mentioned in the said letter dated 19.04.2021.

9. The petitioner again addressed a letter dated 30.07.2021 to the Block Development Officer disclosing therein that the Secretary remaining absent and is not calling the monthly meeting, and therefore, the work of the Panchayat is hampered. Even the villagers are complaining due to garbage problem. This letter was also forwarded to the Panchayat Samiti.

10. The Additional Collector, Yavatmal then called report from the Block Development Officer, Panchayat Samiti, Babhulgaon which is produced at Annexure-4 Page 32. In this letter Block Development Officer, Panchayat Samiti, Babhulgaon in

detail, pointed out that the Secretary is at fault. There is clear reference that the Secretary remained absent for many days in the month of July, 2021 and it is the duty of the said Secretary to call the monthly meeting. This report clearly goes to show that due to the non-action or non-cooperation by the Secretary himself, it was not possible for the petitioner to conduct the meeting.

11. The learned Additional Collector in the impugned order dated 17.08.2022 though recorded the observations of the Block Development Officer, failed to consider it in proper perspective. Unless a notice is issued by the Secretary for the monthly meeting, it is not possible for the Sarpanch to convene the meeting. Similarly, the presence of the Secretary is must during the meeting so as to record the resolutions in the book which is maintained by the Secretary. This aspect has been completely ignored by the Additional Collector, Yavatmal in the impugned order.

12. It is also surprising to note that there is absolutely no finding or even action taken against the concerned Secretary by the Additional Collector for dereliction of duty. Only the petitioner was targeted and that too for no fault of his in the said proceedings. The Collector was duty bound to take action against

the Secretary who was found to be guilty as per the report of the Block Development Officer, Babhulgaon. Ignoring these aspects, the impugned order is issued thereby disqualifying the petitioner for not conducting one meeting in the month of July, 2021. Such order is clearly quite harsh for the simple reason that July, 2021 was admittedly within the Covid period. The impugned order shows non-application of mind on the part of the concerned authority. Accordingly, the said order needs to be quashed and set aside.

13. Having said so, the impugned order is quashed and set aside.

14. Rule is made absolute in the above terms.

15. The parties shall act on the authenticated copy of this order.

(BHARAT P. DESHPANDE, J.)