



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

WRIT PETITION NO.4935 OF 2023

1. Rameshwar Sahebrao Dhore,
aged about 33 years,
Occ.:- Agriculturist,
2. Dipali Anil Bochara,
aged about 43 years,
Occ.:- Household,
3. Vishwanath Tulaji Sardar,
aged about 65 years,
Occ.:- Agriculturist,
4. Pramila Ganesh Hirulkar,
aged about 38 years,
Occ.:- Household,
5. Sandip Uttam Manjare,
aged about 37 years,
Occ.:- Agriculturist,

All 1 to 5 R/o.:- Village Chatari,
Tq. Patur, District :- Akola.

..... **PETITIONERS**

...VERSUS...

1. Hon'ble Minister, Rural Development
Department, Bandhkam Bhavan,
25, Marzaban Path, Mumbai – 32.
2. Divisional Commissioner,
Amravati Division, Amravati.
3. Secretary, Gram Panchayat Chatari,
Tq. Patur, District :- Akola.
4. Chief Executive Officer,
Zilla Parishad, Akola,
Tq and Dist. Akola.

5. Sonu Mangesh Lakhade,
aged about 29 years,
Occ.:- Household,
R/o. :- Village Chatari,
Tq. Patur, District :- Akola.

..... **RESPONDENTS**

Mr. A. R. Deshpande, Advocate for Petitioners.
Mr. A. V. Palshikar, AGP for Respondent Nos.1 and 2/State.
Mr. V. N. Morande, Advocate for Respondent No.3.
Ms. H. N. Jaipurkar, Advocate for Respondent No.4.
Mr. R. D. Karode, Advocate for Respondent No.5.

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

DATE: **15th 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 is challenging the impugned order passed by respondent No.1 in an appeal filed by respondent No.5.
5. The main contention of the learned counsel for the petitioner is that even though they filed a caveat, no notice was served on them, and therefore, they have no opportunity to present their defence before the concerned authority while deciding the said appeal.

6. The learned counsel for the petitioner further submits that though in the impugned order it is recorded that the petitioners were served and they were heard, there is no record to show that any notice was in fact issued or served on the petitioner before deciding such disputes.

7. The learned counsel for the respondent would submit that the report submitted by the Panchayat clearly shows that the petitioners were served and accordingly the matter was taken up before the concerned authority for final hearing. Similarly, it is the contention of the learned counsel for the respondent that the impugned order is based on all the aspects including the contention raised by the parties and thus no interference is warranted.

8. The only question which involved in the present petition is whether the petitioner had an opportunity to defend themselves before the concerned authority/respondent No.1 at the time of deciding the appeal. The letter along with the notices which was forwarded to the Panchayat Samiti, Patur clearly revealed that such notices were received by their office after the date was over, and therefore, such notices were returned unserved. The Panchayat Samiti, Patur addressed a letter to that

effect dated 17.10.2023 disclosing the above fact. There is no record placed before this Court to show that such notices were in fact forwarded through the Village Panchayat or the Gram Panchayat. Even the Panchayat Samiti, Patur clearly expressed in their letter that such notices were not forwarded to the Gram Panchayat. Thus, the report submitted by the Gram Panchayat about service of notice on the petitioner cannot be accepted.

9. The record clearly revealed that the decision passed by respondent No.1 on 19.06.2023 is without giving any opportunity to the present petitioners, and therefore, it clearly against the principles of natural justice. The only remedy which is available now is to quash and set aside such order passed by respondent No.1 on 19.06.2023 and to remand the said proceedings for fresh consideration.

10. It is necessary to note herethat the proceedings are pending for adjudication and it relates to the disqualification, and therefore, direction could be issued for disposal of such proceedings in a time bound manner.

11. It is made clear that this Court has not gone into the merits of the contentions raised by the respective parties and all contentions of all parties are kept open.

12. Accordingly, the impugned order dated 19.06.2023 is hereby quashed and set aside. The said Appeal No.VPM-2023/PK.50/PR.-6 Gram Panchayat Chatari, Zilla Akola is remitted to the respondent No.1 with directions to decide such appeal/proceedings by giving opportunity to all the parties appearing therein, within a period of one month, from the date of first appearance of the parties before date. The parties to appear before the said authority on 05.04.2024.

13. It is made clear that the parties shall not ask further adjournment in the matter.

14. It is reported that in view of the order passed on 19.06.2023, respondent No.5 is working as Upa-Sarpanch. Till the disposal of the said appeal by respondent No.1, the party shall maintain *status quo* as far as today's position is concerned.

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

16. Rule is made absolute in the above terms.

(BHARAT P. DESHPANDE, J.)