



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

WRIT PETITION NO.6620/2023

Ananta Raghunath Lakhe and Ors. Vs. State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V. K. Paliwal, Advocate for petitioners.
Ms S. S. Jachak, Addl. G. P for respondent nos.1 and 2.
Mr. A. M. Tirukh, Advocate for respondent nos.3 to 5.
Mr. S. S. Dhengale, Advocate for respondent no.6.

CORAM : ANIL L. PANSARE, J.

DATE : 01.07.2024

Heard Mr. V. K. Paliwal, learned counsel for the petitioners, Mrs. S. S. Jachak, learned Additional Government Pleader for respondent nos. 1 and 2, Mr. A. M. Tirukh, learned counsel for respondent nos. 3 to 5 and Mr. S. S. Dhengale, learned counsel for respondent no.6.

2. The challenge is to the order dated 14.08.2023 passed by the Hon'ble Minister, Village Development, Maharashtra State, Mantralaya, Mumbai, by which the Sarpancha – petitioner no.1 and the other petitioners who were members of the Gram Panchayat have been disqualified on the proof of the allegations that on 29.05.2021, they have demolished the building of Gram Panchayat, without obtaining prior permission of the competent authority viz. Zilla Parishad, Akola – respondent no.3.

3. During the course of argument and in view of the contradictory stand taken by the counsel for the petitioners, a

query was made by the Court as to whether the defence of the petitioners before the authorities below was of demolition of the building with prior permission or of building getting demolished because of the natural calamity. The counsel states that the buildings collapsed because of natural calamity.

4. The counsel was called upon to show any cogent evidence to substantiate the petitioners' stand that the Gram Panchayat's building collapsed because of natural calamity.

5. He has invited my attention to the reply filed by the petitioners before the Hon'ble Minister. The petitioners took a stand that the building collapsed because of natural calamity viz. hurricane.

6. This cannot be taken as a cogent evidence. This is, in fact, a stand taken by the petitioners before the Hon'ble Minister.

7. The counsel for the petitioners has then invited my attention to panchanama drawn on 31.05.2021. This panchanama has been drawn by the petitioners themselves stating therein that on 29.05.2021, the building under question collapsed because of the storm. It is then recorded in panchanama that the building was in a dilapidated condition and permission to demolish the same was sought vide application dated 12.05.2021. Lastly, it is stated that the material viz. cement sheets, old bricks of the building which fell down, have been stolen and nothing remained at the site. It was, accordingly, decided to file report with the concerned police inspector.

8. This panchanama, to my mind, by no stretch of imagination, can be said to be an evidence muchless cogent evidence to substantiate the claim of the petitioners that on 29.05.2021 there occurred storm or hurricane, which affected only one building namely, Gram Panchayat building. This, apparently is a document created to support the stand which was known to the petitioners to be incorrect. When inquired as to whether the report was lodged with the concerned police station, the counsel for the petitioners answered in the negative.

9. As against, the learned Addl.G.P has, by inviting my attention to the impugned order, pointed out various reports/facts noted by the Hon'ble Minister to repudiate the claim of the petitioners of occurrence of hurricane/storm. Talathi, Kutasa submitted a report that there was no note/information of occurrence of hurricane or thunderstorm or heavy rains on 29.05.2021.

10. Similar is the report of Police Patil/President of Tanta Mukti Samiti, Gram Panchayat, which is certified by the Deputy Chief Executive Officer, Zilla Parishad, Akola. Thus, various authorities have reported that there is no record available or note/information reporting occurrence of such a hurricane/thunderstorm in the month of May, 2021 and particularly on 29.05.2021.

11. To my mind, if at all the stand taken by the petitioners was true, they could have easily gathered necessary information from the Regional Meteorological Centre, Nagpur or such authority with whom the details of such calamities is/are available. The petitioners could neither get such report nor

could they submit any acceptable evidence in support. Thus, it is evident that the petitioners have taken a false stand before the Hon'ble Minister and continued the same before this Court.

12. The petitioners are, therefore, not entitled to the discretionary relief available under the extra ordinary jurisdiction. The petition is accordingly dismissed with costs of Rs.20,000/- to be paid by the petitioners jointly and severally within a period of four weeks. The costs shall be deposited in the account of Gram Panchayat, Kutasa, which shall be utilised for providing amenities to the villagers. The compliance be reported by the Secretary of the Gram Panchayat, Kutasa.

(Anil L. Pansare, J.)