**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR
WRIT PETITION NO. 554 OF 2024**

Meghraj U. Varatkar ...Petitioner

Versus

1. The Collector, Chandrapur
2. The Grampanchayat, Jamni
3. Pravin S. Wasekar
4. Additional Divisional Commissioner, Nagpur Division, Nagpur ...Respondents

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Adv. R.M. Tahaliyani for the Petitioner.
Mr. Sagar Ashirgade, AGP, for the Respondent/ State.
Adv. Harshwardhan Khawale for Respondent No.3.

CORAM : N. R. BORKAR, J.
DATE : 01 JULY 2024.

PC:-

. This petition takes exception to the order dated 11.1.2024 passed by respondent No.4 – Additional Divisional Commissioner, Nagpur Division, Nagpur.

2. The petitioner herein was elected as Member and then Sarpanch of Gram Panchayat, Jamni. The respondent No.3 herein had filed a complaint/application before respondent No.1- Collector, Chandrapur in terms of Section 14(h) of the

Maharashtra Village Panchayat Act (for short 'the Act') alleging that the petitioner stood disqualified to continue to be the Member of the Grampanchayat for having failed to pay the taxes within the period of three months from the date of demand of tax by the Grampanchayat.

3. The respondent No.1 by order dated 18.9.2023 has allowed the application filed by respondent No.3. The petitioner being aggrieved by the order of disqualification passed by respondent No.1 has filed appeal before respondent No.4. By the order impugned, the respondent No.4 has confirmed the order passed by respondent No.1. Hence, this petition.

4. I have heard the learned counsel for the petitioner, learned counsel for the contesting respondent and learned AGP for the respondent/State.

5. Learned counsel for the petitioner submits that the bill towards demand of Grampanchayat tax was served upon the petitioner on 29.6.2021 and a period of 15 days was granted to pay the taxes. It is submitted that the amount of tax was paid

on 9.10.2021. It is submitted that the Division Bench of this Court in the case of ***Rameshwar R. Rewatkar and ors. Vs. Dilip T. Rewatkar & ors.***[1] has held that whenever a period is prescribed for payment of the amount, it would be the last date of demand, that would be the last date for the purpose of complying the liability in respect of demand. It is submitted that the amount of tax was thus paid well within three months from the last date of demand, i.e., 14.7.2021.

6. On the other hand, the learned counsel for the contesting respondent submits that Single Bench of this Court in the case of ***Ruprao V. Dhok vs. The Additonal Commisisoner, Amravati Division, Amravti and ors.***[2] has held that there is no provision under the Act to exclude the period specified in the bill for payment of tax. The bill is required to be paid within a period of three months, which includes the period of 15 days prescribed for payment of bill. It is submitted that no interference is, thus, called for in the impugned orders as the tax was not paid within three months from the date of service of bill.

1 Letters Patent Appeal No. 64 of 2006 decided on 13.7.2006
2 Writ Petition NO. 3485 of 2011 decided on 1.8.2024

7. The Division Bench of this Court in the *case of Rameshwar R. Rewatkar (supra)* has held :

> *"14. Once the bill issued specifying a particular period for payment of the tax, thereby communicating the tax payer that his tax liability can be cleared on any day during the period prescribed including the last date mentioned therein, it would clearly disclose that the demand for the tax would be on each day of the period mentioned in the bill including the last day of such period.*
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> *15. Therefore, it would be the last date of the period that has to be construed as the last date of demand, whenever a period is prescribed for payment of the amount. It would be the last date of demand that would be the date for the purpose of complying the liability in respect of the demand. Bearing in mind the same, clause (h) which specify the period of three months from the date of demand, it will have to be construed as the period from the last date of demand in the bill. For example, if a bill is issued on the first day of the month specifying that that the tax is to be paid by 30th of the said month, the period of three months will have to be counted from the 30th day of that month."*
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> *(emphasis supplied)*

8. Whereas the Single Bench of this Court in *Ruprao Dhok (supra)* has held that there is no provision under the Act to exclude the period specified in the bill for payment of tax. The bill is required to be paid within a period of three months, which includes the period of 15 days prescribed for payment of bill.

9. The learned counsel for the respondent No.3 submits that in view of conflicting decisions the matter may be referred to larger bench. However, the decision in *Rameshwar Rewatkar (supra)* was not brought to the notice of Single Bench. It is not the submission of the learned counsel for respondent No.3 that the decision in *Rameshwar Rewatkar (supra)* is *per-incuriam.* In absence of such situation, it is well settled that in case of conflict, the decision of Division Bench would prevail.

10. In view of the judgment of this Court in case of *Rameshwar R. Rewatkar (supra),* the orders impugned cannot be allowed to stand. In the result, the following order is passed.

ORDER

A. Writ Petition is allowed.

B. The orders impugned are set aside.

C. Pending Application(s), if any, are disposed of.

(N.R. BORKAR, J.)