



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

Writ Petition No.3268/2024
(Pooja V Collector, Buldhana and others)
(Vacation Court)

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

Court's or Judge's orders

Mr. Ram Karode, Advocates for Petitioner.
Mr. P.S. Kshirsagar, Advocate for resp. no.4.
Mr. Autkar, AGP for resp. nos. 1 and 2.

CORAM : Abhay J. Mantri, J.
DATE : 31-05-2024.

Heard the learned Advocate for the petitioner,
respondent no.4, and the learned Assistant Government Pleader.

2. At the outset the learned Advocate for the petitioner
contended that the issuance of notice under Section 36 of the
Maharashtra Village Panchayats Act, 1959 (for short, 'the said
Act') was vague, the notice did not contain particulars for which
he was called upon to tender his explanation and based on the
same he urged that order impugned liable to be recalled.

3. Secondly, he has submitted that the inquiry was not
conducted by the Sub-Divisional Officer and the Chief
Executive Officer. Despite the said fact the respondent No. 1
Collector based on the complaint, passed the impugned order.
The said order is illegal and contrary to the provisions of the law.
As such he urged for staying the impugned order. In support of

his submission he has relied on the judgments of this Court in the case of Radhabai w/o Gangadhar Jogewar vs Collector and others, reported in 2022 DGLS(Bom.) 3750 and Manik Laxmanrao Zate vs District Collector, Hingoli, reported in 2022 (1) ABR 358.

4. *Per contra*, the learned Advocate for respondent no.4 submitted that under Section 36 of the said Act, it is not contemplated that inquiry should be conducted through the Sub-Divisional Officer and the Chief Executive Officer. Therefore, submitted that it cannot be said that the impugned order is illegal.

5. Learned Assistant Government Pleader seeks time to file a reply.

6. During the argument learned Advocate for the petitioner has drawn my attention to the proceeding book and submitted that he has convened the meeting in time and therefore issuance of the notice is not just. Perusal of the same Prima facie it seems that he has convened the meetings on 29-09-2023 and 30-09-2023. So also prima facie it appears that respondent no.4 has no locus to file the complaint as he is

not a Member of the Gram Panchayat. *Moreover*, the notice prima facie appears to be vague. Hence, I find substance in the contention of learned counsel of the petitioner.

7. Having considered the aforesaid fact, in my view, it would be proper to stay the impugned order till further order. If the order is stayed it would not cause prejudice to the respondents. *Per contra*, the petitioner's right will be affected if it is not stayed. As such, I pass the following order :

(i) Ad-interim relief is granted in terms of prayer Clause (ii) till the next date.

8. Issue notice to the respondents, returnable on 02-07-2024.

9. Learned Assistant Government Pleader waives notice for the respondent nos. 1 and 2.

(Abhay J. Mantri, J.)