



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO. 4139 OF 2022

Chhabubai Nagorao NagargojePetitioner

VERSUS

The State of Maharashtra & othersRespondents

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Mr. J. M. Murkute, Advocate for the Petitioner.

Mrs. M. N. Ghanekar, AGP for the State.

Mr. S. G. Kawade, Advocate for Respondent Nos. 4 to 6.

CORAM : R. M. JOSHI, J.

DATE : 29th APRIL, 2025.

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This petition takes exception to order dated 17.03.2022 passed by the Collector, Parbhani, disqualifying the Petitioner from the post of Sarpanch of Village Panchyat Tokwadi, Tq. Gangakhed, Dist. Parbhani, for non-compliance of provisions of Sections 7 and 36 of the Maharashtra Village Panchayat Act, 1958 (for short 'the Act'), for not convening monthly meetings and Gram Sabha as contemplated therein.

3. Petitioner is the elected Sarpanch of Village Panchayat Tokwadi. Contesting Respondents i.e. members of Gram Panchayat made complaint to the Collector with regard to non-compliance of Sections 7 and 36 of the Act by not convening monthly meetings and Gram Sabha as required by Maharashtra Village Panchayat (Gramsabha Meetings) Rules, 1959 and Maharashtra Village Panchayat (Meeting) Rules, 1959. Notice came to be issued to the Petitioner. Petitioner appeared before the Collector and filed written statement. It is the contention of the Petitioner before the Collector that Gram Sabhas and monthly meetings were duly held and to support said submission, record of minutes of the meeting is placed on record. It was also alleged against the contesting Respondents that they failed to sign the attendance register. It was also defence of the Petitioner before the Collector that on account of Covid 19 Pandemic, no resolutions were taken in the meeting held on 07.03.2021. It was further claimed by the Petitioner before the Collector that on account of restrictions imposed by the Government, physical notice was not served however the same was served through SMS/WhatsApp.

4. The Collector, after hearing both sides, passed impugned order disqualifying the Petitioner from the post of Sarpanch for not conducting monthly meetings and Gram Sabhas as contemplated by provisions of Sections 7 and 36 of the Act read with relevant rules.

5. Learned counsel for Petitioner submits that during relevant period, on account of Covid 19 Pandemic, there was exemption given for holding Gram Sabhas. He placed reliance on Government Resolutions dated 19.03.2020 and 20.05.2020 issued in this regard. According to him, by order dated 12.05.2021 stay to the meetings was made effective and the same continued till 21.01.2022. According to him, there is no substance in the contention of learned counsel for contesting Respondents that without notice to the members of Gram Panchayat, meetings were held and hence it does not contemplate meeting as provided by law. It is his submission that once there was exemption granted, it is immaterial whether any meeting was conducted or not conducted by the Petitioner. In order to support his submissions, he has placed reliance on paragraph No. 17 of judgment of Coordinate Bench of this Court in case of Shri Manohar s/o Dnyaneshwar Pote vs. The Collector, Jalna and others, in Writ Petition No. 9427/22. Reference is also made to another

judgment in case of Gangabai Vithal Bade vs. State of Maharashtra and others, **2013(3) Bom.C.R. 277**. He further argued that this is not a case wherein there is no meeting held. However, for absence of contesting Respondents, the quorum was not complete. Thus, according to him, this case cannot be considered to be a violation of Sections 7 and 36 of the Act. It is his further submission that there was no specific charge against the Petitioner and as such by relying upon the judgment of this Court in case of Sunil Daulat Patil vs. The State of Maharashtra and others in Writ Petition No. 3419/2023, it is submitted that the order of disqualification cannot sustain.

6. Learned counsel for contesting Respondents supported the impugned order. He made a grievance that infact without conducting any monthly meeting or Gram Sabha, Petitioner has created a false record. In order to support his submissions, photocopies of minutes of meeting are placed on record. There is no dispute made by the Petitioner with regard to the correctness of the said copies. According to him, the meetings held from 18.02.2021 till 12.06.2021 do not indicate service of notice of meeting to the members of Gram Panchayat. He has referred to the minutes of the meeting dated 20.04.2021 wherein though the members of Gram

Sabha were shown absent, Resolution No. 7 indicates that the proposal as seconded by a member who was not present in the meeting. Thus, it is his submission that false record is created by the Petitioner and hence appropriate action is contemplated against him. It is his further submission by referring to the provisions of Sections 7 and 36 of the Act and relevant rules that unless a meeting is conducted in accordance with rules, the same cannot be considered as meeting under the Act.

7. Learned AGP supported the impugned order. She has drawn attention of the Court to the findings recorded by the Collector in the impugned order that there is no evidence to indicate issuance of notice of meeting to the members of Gram Panchayat. Similarly, finding of fact is recorded about non-compliance of Sections 7 and 36 of the Act which, according to her, needs no interference for want of perversity. To support her submissions, she placed reliance on following judgments :-

- (i) Gunwantrao Yeshwantrao Deshmukh vs. State of Maharashtra and another, AIR 1982 Bombay 295.
- (ii) Govindrao Tulsiram Waghmare vs. Ranjit Mukundrao Halse and another, 2016 SCC Online Bom. 10838.
- (iii) Saimabi Mubarak Tamboli vs. The State of Maharashtra

2019 SCC Online Bom. 667

- (iv) Kusum Chandrakant Kachare vs. The State of Maharashtra and others, 2018 SCC Online Bom. 4855
- (v) Jijabai Bapurao Lingare vs. The State of Maharashtra and others, 2008 SCC Online Bom. 1165
- (vi) Pralhad Bhikaji Bargaje vs. State of Maharashtra and others, 2016 (6) 900
- (vii) Awadhoot Kisan Ambalkar and others vs. State of Maharashtra and others, 1977 Mh.L.J. 689.

8. At the outset, this Court would like to deal with the issue sought to be raised by learned counsel for Petitioner that no specific charge being made against the Petitioner. In this regard, perusal of the impugned order does not indicate that any ground to that effect has been raised in the petition. Apart from this, Petitioner has appeared before the Collector and has filed written statement. In the written statement filed before the Collector, no issue is raised that the charge against her is not specific. There is specific allegation against the Petitioner that in the capacity of Sarpanch she did not convene mandatory monthly meetings and Gram Sabhas. Petitioner therefore failed to make out the case that charge was so vague that she could not have responded to the same. As such, the Petitioner is not

entitled to get any support from the judgment of Coordinate Bench of this Court in case of Sunil (supra).

9. There cannot be any dispute made with regard to the fact that Sections 7 and 36 of the Act are mandatory in nature. The intention behind the said provisions is to ensure that the issues concerning to the common people who have elected Sarpanch/Deputy Sarpanch are taken up and addressed. The mandate of law requires meetings to be conducted in accordance with the Rules of 1959. This mandates service of 7 days notice to the members of Gram Panchayat. Here in this case, though it is sought to be contended before the Collector that notices were issued to the members of Gram Panchayat, however, no evidence to that effect is filed on record. The Collector has recorded finding to that effect. Needless to say that any meeting held without issuance of notice to the members of the Gram Panchayat would be no meeting in the eyes of law.

10. On one hand, Petitioner claims that there was exemption from conduct of meeting during Covid 19 Pandemic period and on other, she placed on record minutes of meetings held during this

period. Similarly, at one breath it is claimed that members of Gram Panchayat have failed to remain present and hence their signatures do not appear on record and in next breath it is contended that they appeared but did not sign attendance record.

11. In so far as disqualification for non convening of meetings, the fact of not convening the meeting does not ipso facto become ground for disqualification as it was open for the Petitioner to provide sufficient cause for non-conducting meeting and mere non-conducting of meeting to avoid disqualification. This defence however is not available to the Petitioner for the simple reason that the Petitioner does not claim that the meetings could not be convened. On the contrary, it is the specific case of the Petitioner that meeting was convened. This also goes contrary to the argument advanced by learned counsel for Petitioner in order to claim exemption under the Government directives issued from time to time.

12. No doubt, by Government Resolutions dated 19.03.2020 and 12.05.2020 there was a stay granted to conduct of Gram Sabhas. This however, does not apply to conduct of of monthly meetings. Once the Petitioner has a specific claim of meeting being conducted,

question of application of these resolutions to the Petitioner does not arise. So far as the judgments cited supra by Petitioner, the facts of those cases are totally different than the one in hand. Hence, the same does not come to the aid of the Petitioner.

13. The Collector, by appreciating material on record, has specifically held that there was no monthly meeting conducted from March 2021 to September 2021. Similarly, the Gram Sabhas are not convened as required by Section 07 of the Act. The findings of fact recorded by the Collector are in consonance with the material placed before him. As a result of this, Petitioner has failed to make out any case to cause any interference in the impugned order. Hence, petition stands dismissed.

14. Apart from this, perusal of record placed before this Court prima facie supports the contention of learned counsel for Respondents that the Sarpanch and Deputy Sarpanch has created record in order to indicate that the meetings were held. There is prima facie material on record to support the said submission in the form of minutes of meeting dated 20.04.2021. This Court, however, refrains itself from recording any finding in this regard and the

Collector to conduct appropriate enquiry after giving an opportunity of hearing to both sides. If it is found that there is substance in the allegations of learned counsel for the contesting Respondents, further action as provided by law be taken against all concerned.

15. Petition stands dismissed in above terms.

(R. M. JOSHI)
Judge

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