



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5426 OF 2024

Achut Ekanath Bondhare

VERSUS

Uppar Divisional Commissioner I And Others

Mr. P. R. Katneshwar, Senior Counsel i/b Mr. R. S. Patil, Advocate for
Petitioner

Mr. S. B. Jadhav, AGP for Respondent/State

Mr. V. D. Salunke, Advocate for Respondent Nos. 3 and 4

CORAM : R. M. JOSHI, J.

DATE : 26th February, 2025

PER COURT :-

1. This petition takes exception to order dated 23.04.2024 passed by Additional Divisional Commissioner, Chatrapati Sambhaji Nagar in an appeal under Section 16(2) of Maharashtra Village Panchayats Act, 1959 (for short "**the Act**") and seeking confirmation of order passed by the Collector dated 15.12.2023 disqualifying contesting respondent under Section 14(1)(g-1) of the Act.

2. It is a case of the petitioner that he filed complaint against Kantabai Shivdas Gaikar and Meenabai Ankush Rathod before Collector, Nanded under the provisions of Section 14(1)(g) of the Maharashtra Gram Panchayat Act, 1958 alleging financial misappropriation of the Gram Panchayat funds without seeking complaint bearing No.

2023/GB/Desk-1/grapni/CR-100 was heard by Collector, Nanded and by order dated 15.12.2023, disqualification of Respondent Nos. 3 and 4 was directed. These respondents preferred appeal under Section 16(2) of the Act before the Additional Divisional Commissioner challenging the said order passed by Collector. Petitioner appeared in the said proceeding and filed reply pointing out the account statement of Gram Panchayat indicating that not only Respondent Nos. 3 and 4 as well as husband of Respondent No. 4 has withdrawn Gram Panchayat funds but also more than this amount has been misappropriated and misused in exercise of powers of the post held by them. In this regard, it is a case of the petitioner by referring two specific entries indicating withdrawal, the appeal was sought to be dismissed. It was further case of the petitioner that there was a report of Chief Executive Officer of Zilla Parishad, Nanded so also the following statements indicating withdrawal of the funds from the account of Gram Panchayat by Respondent Nos. 3 and 4 and their relatives. It was also sought to be made out before the Appellate Authority that the another bank account of Gram Panchayat was having balance of Rs. 8,27,621/- and hence, there was no need to seek advance amount from any members of the Gram Panchayat or private persons. Since the Appellate Authority has caused interference in the order passed by the Collector, this petition.

3. Learned senior counsel appearing on behalf of the Petitioner submits that there is evidence on record to indicate the misappropriation of the funds of Gram Panchayat and withdrawal of the same by Respondent Nos. 3 and 4 and their relatives. It is his submission that the report of Chief Executive Officer of Zilla Parishad is sufficiently clear to the extent that in another account of Gram Panchayat, there was more than Rs. 8 lakhs available and hence, there was no occasion arose and for accepting any deposits from the members of Gram Panchayat or any other person. It is his submission that the Collector has rightly appreciated the said evidence on record and has disqualified the respondent Nos.3 and 4 as a members of the Gram Panchayat. He placed reliance on the judgment of Division Bench of this Court in case of **Balaji Ganpati Manmode Vs. State of Maharashtra and ors. 2013 (3) Bom. C. R. 613 .**

4. Learned counsel for contesting respondents supported the impugned order passed by the Additional Divisional Commissioner. Reference is made to the resolutions passed by Gram Panchayat of accepting the deposit from the members as well as from private person. In this regard, the document indicating the receipt issued by the Gram Panchayat so also entries in the account of Gram Panchayat indicating such deposits are relied upon. It is submitted by the learned counsel for

these respondents that provisions of Section 14 (1)(g) cannot be invoked in order to settle the political scores and only when if it is found from the record that there is misappropriation of the funds, the disqualification could get attracted and not otherwise.

5. Though, it is sought to be argued on behalf of the petitioner that as per the report of Chief Executive Officer in one of the accounts of Gram Panchayat a sum of more than Rs. 8 lakh was found to the credit. However, the documentary evidence in form of resolution which was placed before the Collector as well as Additional Divisional Commissioner clearly shows that the Gram Panchayat was not having sufficient funds in order to perform certain works in the interest of public and for that purpose from the members as well as from private person, deposits were accepted. Moreover it is not a case wherein there is only a resolution un or the receipts issued in this regard but the bank statement of Gram Panchayat clearly confirms the said fact.

6. At this stage, it would be relevant to refer to the provisions of Section 14 of the Act which reads thus :-

(1)No person shall be a member of a panchayat continue as such, who--

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the Panchayat or in any contract with, by or on behalf of, or employment with or under, the Panchayat; or

7. Section 16 of the Act enables Collector to take cognizance of any such complaint and if it is established that the case is covered by clauses (a) to (k) of Section 14(1), disqualification can be attached to such member of Grampanchayat. In the instant case, case of the petitioner is said to be covered by Clause (g). Thus to substantiate the complaint, it must be shown that the contesting respondents/members of Gram Panchayat have any direct or indirect interest in the work done by Gram Panchayat or any contract with or on behalf of or by employment with or under Panchayat. There is allegation against members that they and relatives withdraw money of Gram Panchayat. Apparently, the said allegation is not covered by Clause (g) of Section 14 of the Act. The only fact which appears from record that certain amounts are withdrawn from the account of Grampanchayat. The contention of the Petitioner is that an amount of about Rs. 8 lakhs was available in one of the Account of Gram Panchayat and hence there was no reason to pass any resolution to accept deposit.

8. Even if it is accepted that the sake of argument that Rs. 8 Lakhs was available in another account of Gram Panchayat, however, there is nothing on record to inform that the said amount was open for expenditure for the work sought to be done by the Gram Panchayat. Needless to say that there are different accounts for different purposes and the funds allocated for one purpose cannot be allowed to be utilized for another. In such circumstances, when there is evidence on record in the form of resolution of Gram Panchayat, receipt received by Gram Panchayat indicating the acceptance of deposit coupled with the bank entries in the Gram Panchayat account, it cannot be said that the withdrawals done by Respondent Nos. 3 and 4 and their relatives amount to misappropriation of the funds of Gram Panchayat. There is further no material to indicate that resolution passed by Gram Panchayat is challenged.

9. The Additional Divisional Commissioner has taken into consideration the documentary evidence on record more particularly entries in the bank account of Gram Panchayat which were completely ignored by the Collector. In such circumstances, having regard to the purpose/intention of the legislator, unless ingredients of clause (g) are proved question of disqualifying the petitioner does not arise. In the facts of the case, findings recorded by the Additional Divisional Commissioner

are in consonance with the material evidence on record and hence cannot be termed as perverse. Hence, there is no substance in the petition.

10. Petition stands dismissed.

(R. M. JOSHI, J.)

bsj