



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

994 WRIT PETITION NO. 6773 OF 2024

Prayali Ravindra Gawali,
Age 35 years, Occu. Household,
R/o Hasegaon (Shi), Tq. Kallamb,
District Dharashiv

...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Rural Development Dept.,
Mantralaya, Mumbai- 32
2. The District Collector,
Dharashiv, Dist. Dharashiv
3. The Chief Executive Officer,
Zilla Parishad, Dharashiv
4. The Deputy Chief Executive Officer,
Zilla parishad, Dharashiv
5. The Block Development Officer,
Panchayat Samiti, Kallamb,
Tal. Kallamb, Dist. Dharashiv
6. The Gramsevak,
Grampanchayat Hasegaon (Shi),
Tq. Kallamb, District Dharashiv
7. Rajaram S/o Kundlik Malage,
Age 46 years, Occu. Agri & Social Worker,
R/o Hasegaon (Sh.) Tq. Kallamb,
District Dharashiv

...Respondents

...

Mr. S. S. Thombre, Advocate for the petitioner.
Mr. P. V. Tapse Patil, Advocate for respondent nos.3 to 5.

Mr. D. J. Ghodke h/f. Mr. Amol T. Jagtap, Advocate for respondent no.7.

Dr. Kalpalata Patil Bharaswadkar, Addl. G. P., Advocate for respondent/State.

...
CORAM : ROHIT W. JOSHI, J.
DATED : 3rd JULY 2025

JUDGEMENT :-

1. Present petition is filed in order to challenge order dated 24.06.2024 passed by respondent no.2-the District Collector, Dharashiv holding that the petitioner has incurred disqualification as Sarpanch on account of failure to hold four meetings of the Gramsabha in a financial year.

2. The petitioner was elected as Sarpanch of Hasegaon, Tq. Kallamb District Dharashiv in December 2022. Respondent no.7 lodged a complaint dated 22.12.2023 alleging that the petitioner had failed to hold four meetings of Gramsabha in the financial year commencing from 01.04.2023 and ending on 31.03.2024. It was also alleged that the petitioner had not conducted monthly meeting of the Grampanchayat in the month of May 2023. In view of the above allegations, it was prayed that the petitioner should be disqualified for holding the office of Sarpanch as per the mandate of Section 7 of the Maharashtra Viillage Panchayat's Act, 1958.

3. The Collector directed the Block Development Officer to conduct enquiry in the matter and furnish a report. Accordingly, the Block Development Officer furnished report dated 26.02.2024 *inter alia* stating that the Gramsabha meeting was not held in the month of May 2023. It is stated in the report that monthly meeting of the Gram Panchayat was conducted for the month of May 2023. However, the Gramsevak had not furnished proceedings of the said meeting. As regards the meeting of Gramsabha, it is stated that inspection of the report revealed that a notice dated 04.05.2023 was issued for convening meeting of Gramsabha on 10.05.2023. It is further stated that the record maintained indicated that in all eight persons attended the Gramsabha held on 10.05.2023 and the same was adjourned to 12.05.2023. As per the record furnished, Gramsabha held on 12.05.2023 was attended by 23 persons. It is observed by the Block Development Officer that the record indicated overwriting in the dates in as much as it appears that initially the month of Gramsabha was mentioned as April by mentioning the figure '4' and that figure was made to appear as '5' (May) by overwriting. This overwriting according to the report is in the minutes of Gramsabha shown to be held on 10.05.2023 as well as adjourned Gramsabha shown to be held on 12.05.2023.

4. On receiving report from the Block Development Officer, the Collector issued a Show Cause Notice along which copy of the report submitted by the Block Development Officer to the Collector was attached. The petitioner appeared before the Collector and filed a reply in the matter stating that four meetings of Gramsabha were held in accordance with the provisions of the Act. After hearing the rival submissions, the Collector passed order dated 24.06.2024 holding that the petitioner had incurred disqualification under Section 7 of the Act. The said order is challenged by the petitioner in the present petition.

5. Shri. S. S. Thombre, the learned Advocate for the petitioner contends that the record of the case indicated that four meetings were in fact held in the relevant financial year. He contends that the Collector had merely held that the petitioner had failed to hold four meetings of Gramsabha, however, he has not recorded satisfaction that the petitioner had failed to hold four meetings without sufficient cause. Apart from this, he contends that the findings are also not just and proper. Lastly he contends that the Collector had failed in following the prescribed procedure in as much as the Collector did not frame specific charge against the petitioner calling the petitioner

to show cause and answer the charge. This according to him is in contravention of law laid down by this Court in several judgments. He contends that the order dated 24.06.2024 passed by the Collector is therefore liable to be quashed.

6. Per contra, Mr.Ghodke h/f. Mr. A. T. Jagtap, learned Counsel appear for respondent no.7 supported the impugned order. He contended that the petitioner had not only failed to conduct four meetings of the Gramsabha as is mandatory under Section 7 of the Act, but has also fabricated record to make a false show of having held the meetings of Gramsabha in May 2023.

7. The learned Advocate has drawn attention to the minutes of meeting of the Gramsabha allegedly held on 10.05.2023 and the monthly meeting allegedly held on 10.05.2023. He states that it is inconceivable that the monthly meeting and Gramsabha meetings were held simultaneously on the same date at the same time at two different places and the petitioner was present in both the meetings. He therefore contends that the proceedings of the Gramsabha meeting allegedly held on 10.05.2023 are forged. He also contends that the proceeding of the alleged meeting dated 10.05.2023 is therefore not written in the Regular Minute Book. He has drawn attention to the original proceeding book in which the minutes of Gramsabha held in

the month of January and August are written. His contention is that the proceeding of the alleged Gramsabha held in the month of May ought to have been recorded in the same minute book.

8. Dr. Kalpalata Patil Bharaswadkar, the learned Addl. G. P. also supports the contention of the learned Advocate for respondent no.7. She contends that the Collector has recorded definite findings of fact on appreciation of the entire material and has arrived at correct conclusion. The learned AGP points out from the order that there are clear observations in the order recording tampering of record with respect to the minutes of meeting allegedly held in the month of May 2025.

9. Mr. Thombre, counters the contentions with respect to the maintenance of separate register in the month of May 2025 by referring to statement of the then Gramsevak dated 30.10.2023 addressed to the Block Development Officer, wherein, it has stated that due to mistake the relevant record could not be handed over to the Gramsevak who had taken charge of the office from her and therefore the register pertain to the Gramsabha of the month of May 2023 remained with her.

10. Perusal of the order passed by the learned Collector will demonstrate that although it is held that the petitioner did not hold

Gramsabha in the month of May 2023 as is alleged by her, the Collector has not recorded any finding that Gramsabha was not held by the petitioner without sufficient cause. Perusal of Section 7 of the Act will demonstrate that a Sarpanch cannot be disqualified under the said provision merely on account of failure to hold four Gramsabha meetings in a financial year. The failure should be without sufficient cause. It was incumbent for the Collector to record a specific finding that failure to hold four Gramsabha meetings was without any sufficient cause and in the absence of such finding the Collector could not have passed order of disqualification invoking Section 7 of the Act.

11. As regards the Show Cause Notice, perusal of the same demonstrates that the Collector had forwarded copy of the report submitted by the Block Development Officer along with the Show Cause Notice. The Petitioner was called upon to file her reply to the Show Cause Notice. The Collector did not frame any specific charge against the petitioner. In this regard, the learned Counsel for the petitioner has placed reliance on judgments of this Court in the following matters :-

- (i) Writ Petition No.1083 of 2010 (*Sow. Pratibha w/o Sanjay Hulle Vs. The Additional Collector, Latur and Ors.*)

decided on 16.04.2010.

(ii) Writ Petition No.9427 of 2022 (***Shri. Manohar s/o Dnyaneshwar Pote Vs. The Collector, Jalna and Ors.***) decided on 24.02.2023

(iii) Writ Petition No.6455 of 2013 (***Anil s/o Balasaheb Aher vs. The state of Maharashtra and Ors.***) decided on 3.07.2014.

(iv) Writ Petition No.236 of 2025 (***Shaikh Mobin Abdul Kareem Vs. The state of Maharashtra & Ors.***) decided on 26.03.2025.

(v) Writ Petition No.3419 of 2013 (***Sunil Daulat Patil Vs. The State of Maharashtra***) decided on 04.12.2013.

12. In the matter of ***Pratibha w/o Sanjay Hulle (supra)*** this Court has held as under :

“4.....The notice issued on 11-9-2009 merely calls upon the petitioner to appear in the office of Additional Collector on 29-9-2009. The petitioner has not been informed about the charges. Infact, it was the responsibility of the deciding authority, after receipt of the application, to direct holding of enquiry by Block Development Officer and, after receipt of the report of enquiry, the petitioner ought to have been communicated specific charges longwith the copy of the report. Observance of such transparent procedure enables the person against whom the charges are levelled to tender proper explanation and answer the charges. In the absence of observance of such procedure, enquiry initiated cannot be sold to be proper. The person against whom enquiry is initiated is entitled to know a to what are the charges leveled against him.....”

“11....The person holding office is entitled to put forth his defence and demonstrate sufficient cause for his failure to perform the statutory obligations. In order to enable him to raise proper defence and explain

sufficient cause for his failure to perform any statutory function, he must be informed essentially as regards his failure meaning thereby he must be communicated the specific charges. In the instant matter, on account of failure to inform the specific charges, the resultant enquiry and the order is vitiated. For the reasons stated above, the impugned order passed by the Additional Collector, Latur on 19-1-2010 is quashed and set aside.....”

13. In the matter of ***Shri. Manohar s/o Dnyaneshwar Pote (supra)*** referring to several decisions on the point this Court has held in paragraph 19 of the judgment as under :-

“19. Thus, from the judgements quoted above, it is made cler that an elected member is to be removed in exceptional circumstances and that he has to be explained the specific charge against him and also the elected members should be given an opportunity to explain sufficient cause for his failure to perform statutory duty.”

14. In the matter of ***Sunil Daulat Patil (supra)***, this Court has reiterated that framing of specific charges is necessary for adjudication of proceeding for disqualification under Section 7 of the Act. The judgment in the matter of ***Pratibha w/o Sanjay Hulle (supra)*** is followed in this matter.

15. Similarly in the matter of ***Anil s/o Balasaheb Aher (supra)***, the judgment in the matter of ***Pratibha w/o Sanjay Hulle (supra)*** is quoted with approval and followed by this Court. The last judgment in the matter of ***Shaikh Mobin Abdul Kareem (supra)*** also reiterates the same legal position about need and necessity to framing specific

charges in a proceeding for disqualification under Section 7 of the Act.

16. It is thus a constant view of this Court that proceeding for disqualification under Section 7 cannot be decided without framing specific charge and calling upon the candidate concerned to explain the said charge. The said requirement is admittedly not complied with in the present case.

17. To counter the aforesaid judgments, the learned Advocate for respondent no.7 has placed reliance on judgment in the matter of ***Maroti Sheshrao Kendre Vs. The State of Maharashtra and Others*** in Writ Petition No.4164 of 2020 decided on 1st March 2022. The petitioner in the said matter had placed reliance on the judgments in the matter of ***Pratibha w/o Sanjay Hulle (supra)***, ***Sunil Daulat Patil (supra)*** and ***Tukaram Krushnaji Parve V/s. State of Maharashtra and Others*** reported in ***(2015 (3) Mh.L.J. 652)***, to contend that he was not served with a proper notice and the charges were also not informed to him and on these grounds the petitioner prayed to set aside the order of disqualification passed under Section 14(A), 7 and 36 of the Act.

18. It is held that during the course of hearing before the Collector,

the petitioner had not raised any grievance as regards want of proper notice and non framing of charges and had argued the matter on merits without any reservation. In that view of the matter it was held that there was substantial compliance with the prescribed procedure and accordingly the petition was dismissed.

19. In the present case, apart from the procedural requirements regarding framing of charge and calling upon the petitioner to explain the same, as noted above, the Collector has merely recorded a finding that the petitioner did not hold four meetings in the Financial Year 2023-2024. However, it is not held that the petitioner failed to hold four meetings without sufficient cause. It is well settled that statutes prescribing disqualification, ouster from office or expulsion of any elected representative must receive strict interpretation and further that the elected representative of people cannot be expelled from office unless the requirement of statute is strictly and fully established.

20. In the present case, the petitioner has produced documents indicating meeting of Gramsabha held in the month of May 2023. Although, the genuineness of the record is seriously doubted by the learned Advocates for the respondents as also the learned AGP and it

must be conceded that the report by Block Development Officer *prima facie* indicates such mischief, in the peculiar facts of the case it was necessary to frame a proper charge in this regard and call explanation of the petitioner with respect to the same. Respondent no.2-Collector has failed to undertake the said exercise.

21. In view of the aforesaid, the petition deserves to be partly allowed. Hence the following order :

ORDER

(i) Impugned order dated 24.06.2024 passed by the District Collector, Dharashiv in proceeding No.2023/Sapras/Grapni/Ka-1/Kavi-1263, is quashed and set aside;

(ii) The matter is remitted to respondent no.2/District Collector for deciding the matter afresh by framing charge against the petitioner and calling upon her to furnish explanation with respect to the charge;

(iii) The party shall appear before respondent no.2-Collector on 14.07.2025 at 11.00 a.m. Parties to note that separate notice for appearance will not be issued;

(iv) The Collector is directed to decide the matter afresh on or before 31st August 2025; and

(v) The Collector should record positive finding as to whether four meetings of Gramsabha were held in the Financial Year 2023-2024. If the Collector arrives at a conclusion that four meetings were not held, a positive finding should be recorded as to whether any sufficient cause is made out by the petitioner for failure to do so.

[ROHIT W. JOSHI, J.]