



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9095 OF 2022

1. The Sarpanch,
Grampanchayat Punewadi,
Tq - Parner, Dist - Ahmednagar,
Balasaheb s/o Kondiram Repale,
Age - 30 years, Occu. Business,
R/o Punewadi Tq - Parner,
Dist - Ahmednagar.

2. The GramSevak,
Grampanchayat Punewadi,
Tq - Parner, Dist - Ahmednagar

....Petitioners
[Org. First Party]

VERSUS

Santosh s/o Namdev Borude,
Age - 28 yrs Occu. Agri.,
R/o Punewadi Tq. Parner,
R/o Punewadi Tq. Parner,
Dist. Ahmednagar

.....Respondent
[Org. Second Party]

Appearance :

Mr. T. S. Kotkar h/f Mr. S. D. Kotkar, Advocate of the
Petitioners

Mr. S. D. Jaybhar, Advocate for the Respondent - Sole

CORAM : NEERAJ P. DHOTE, J.

RESERVED ON : 18th November, 2025

PRONOUNCED ON : 09th December, 2025

FINAL ORDER :

1. The Gram Panchayat, Punewadi, Taluka Parner,
District Ahmednagar, has filed this Writ Petition under Article
227 of the Constitution of India against the order dated

09/02/2021, passed by the learned Presiding Officer, Labour Court, Ahmednagar, in Reference (IDA) No.05/2018, directing the Petitioners to reinstate the Respondent in the services from 02/06/2016.

2. The brief facts giving rise to the present Petition are as follows :-

[I] The Respondent was appointed as the Clerk by the Petitioners - Gram Panchayat, pursuant to the Resolution No.9 in its monthly meeting dated 25/02/2015. The Respondent was on sick leave from 16/05/2016 to 01/06/2016, for which, he had submitted the leave Application on 16/05/2016. Thereafter, he was terminated by the oral order of the Sarpanch / Gram Panchayat with effect from 02/06/2016. He submitted the representation dated 22/06/2016 to the Block Development Officer, Panchayat Samiti, Parner, District Ahmednagar (for short 'the BDO'). When he had gone to demand his salary, he was not allowed to enter the Gram Panchayat, so he submitted the complaint to the BDO. The staffing pattern of the Petitioners - Gram Panchayat was sanctioned from April - 2014 and the salary grants were received from the Government, and therefore, there was no financial burden on the Petitioners - Gram Panchayat. The

Respondent approached the Gram Panchayat Employee Union, through which, he gave notice dated 30/08/2016 under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act'). However, the Petitioners - Gram Panchayat did not allow him to join the duty and was not given salary from November - 2015. Thereafter, the Respondent filed the Mediation Letter to the Labour Officer and Mediator, Office of the Assistant Labour Commissioner, Ahmednagar, for doing the needful.

[II] The dispute was referred to the Labour Court. The Respondent filed his statement of claim narrating the entire factual aspects. The Petitioners - Gram Panchayat vide communication dated 16/04/2018 addressed to the Labour Court, submitted their contention that, the Respondent was not attending the duty regularly and the public work was adversely affected. The Respondent's behavior was not proper and he used to avoid the duty. The Resolution in the meeting dated 25/02/2015 was passed without the Coram of the meeting. The Respondent used to not report to duty after the leave period. The Petitioners - Gram Panchayat had no option but to engage the services of another person. After recruitment of the another person, the work of Petitioners -

Gram Panchayat was going on properly. The said Employee was appointed on permanent basis by passing the Resolution in the meeting.

3. It is submitted by the learned Advocate for the Petitioners - Gram Panchayat that, the Labour Court had no jurisdiction to entertain the Reference, as the Respondent was not the workman under the definition of the I. D. Act. The impugned order suffers from jurisdictional error. The Respondent was the temporary Employee. The Respondent did not report on the duty and despite, the Petitioners - Gram Panchayat contacted him, he did not respond, and therefore, the Petitioners - Gram Panchayat had no option but to engage the services of the another person. There was remedy for the Respondent under the provisions of the Bombay Village Panchayats Act, 1958 by way of Appeal. The Respondent failed to establish before the learned Labour Court that, he worked for 240 days. The Appeal be allowed. In support of his submissions, he cited the following Judgments :

- (i) **Gram Panchayat, Sawargaon Vs. Jamnaprasad Raghunath Prasad; (1967) SCC Online Bom. 61;**
- (ii) **Gram Panchayat, Katli Vs. Presiding Officer, First Labour Court, Nagpur ; 1989 SCC Online Bom. 131;**

- (iii) **Village Panchayat of Collem Vs. Industrial Tribunal, Government of Goa; 1994 SCC Online Bom. 662 ;**
- (iv) **Harshad Chiman Lal Modi Vs. DLF Universal Ltd. and Another ; (2005) 7 SCC 791 ;**

4. It is submitted by the learned Advocate for the Respondent that, the Petitioners - Gram Panchayat did not raise the issue of maintainability of the dispute before the learned Labour Court. No evidence was laid by the Petitioners - Gram Panchayat in the IDA proceedings. No inquiry was held before orally terminating the services of the Respondent. The learned Labour Court has rightly passed the impugned order and no interference was called for in this Writ Petition. In support of his contentions, he cited the following Judgments :

- (i) **The order dated 25/11/2025 of this Court passed in Writ Petition No.11294/2022 (Gokul Onkar Patil Vs. The State of Maharashtra through Secretary and Others ;**
- (ii) **The order dated 04/07/2007 of this Court passed in Writ Petition No.5235/2007 (The Sarpanch Gram Panchayat, Pophalavane Vs. Jaisingh Bhikaji Shinde ;**
- (iii) **The order dated 24/03/2020 of the Madras High Court passed in W. P. (MD) No.12309/2016 (The Executive Officer, Kottaram Town Panchayat Vs. P. Murugesan and Anr.);**

- (iv) **The order dated 26/11/2010 by the other High Court (not seen from the copy), in Writ Petition No.18051/2001 (Kannam Venkati Vs. The District Panchayat Officer (DPO), Karimnagar and three others ;**

5. In Gram Panchayat, Sawargaon (*Supra*), the Respondent therein was employed as a Pound-keeper by the Janpad Sabha, which was a local authority constituted under the Central Provinces and Berar Local Government Act, 1948, in the old State of Madhya Pradesh. Under the said Act, the establishment and maintenance of cattle-pounds was one of the compulsory functions to be performed by the Janpad Sabha. The Bombay Village Panchayats Act, 1958 came into force and all the Panchayats constituted under the Central Provinces and Berar Panchayats Act were deemed to have been constituted Panchayats under the new Bombay Act. The issue was in respect of the service of the cattle-pound keeper. The question for consideration was whether the activity carried on by the Village Panchayat can be called as Industry within the meaning of the C.P. and Berar Industrial Disputes Settlement Act, 1947. Considering the aspects of the matter, it was held that, the activity carried on by the Village Panchayat did not satisfy the tests, and therefore, it was not possible to hold that, the Gram Panchayat was employed in an activity, which had resemblance to an "industry".

6. In Gram Panchayat, Katil (*Supra*), considering the decision in *Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Ors.*; AIR 1978 SC 969, it was held that, the

Respondent No.2 therein was a marginal employee hired to attend certain minimal matters that would not destroy the non-employer character of the organization.

7. In Village Panchayat of Collem (*Supra*), the challenge was to the Award passed by the Industrial Tribunal. The matter was remanded to the Tribunal to decide the Reference afresh on all the three points, which were raised by the Government.

8. In Harshad Chiman Lal Modi (*Supra*), the issue in respect of jurisdiction of a Court was considered. It is observed that, the jurisdiction of a Court may be classified into several categories, the important categories were (i) Territorial or local jurisdiction, (ii) Pecuniary jurisdiction, and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that, if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. The jurisdiction as to the subject matter, however, is totally distinct and stands on a different footing. Where a Court has no jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a Court having no jurisdiction is nullity.

9. In Gokul Onkar Patil (*Supra*), the Petitioner therein was a Peon in the Gram Panchayat and he filed the Writ Petition for quantifying the arrears of his salary, living allowances and other benefits by observing that, the Petitioner was a “workman” under Section 2(s) and the Gram Panchayat is an “industry” under Section 2(j) of the Industrial Disputes Act, 1947 and he was having efficacious statutory remedy of approaching the Industrial Court and the Writ Petition was disposed of with liberty to the Petitioner to avail the statutory remedy.

10. In Sarpanch Gram Panchayat, Pophalavane (*Supra*), no issue as to whether the Respondent was employed in an industry or not was raised by the Petitioner – Gram Panchayat therein at any point of time. The reference was not challenged nor the instructions were given to the Advocate for filing written statement. It is observed that, the issue as to whether the Petitioner is an industry or not need not be framed if the employer does not join issue in this regard with the workman, and therefore findings of the Labour Court were not interfered.

11. In Executive Officer, Kottaram (*Supra*), the Gram Panchayat had challenged the jurisdiction of the Labour Court to hold the case, as the Petitioner, who was Scavenger in the Panchayat, will come under the purview of Industry or not. Considering the Judgment in *Kannam Venkati Vs. District Panchayat Officer (DPO), Karimnagar and Others; 2010 Supreme (AP) 1176*, it is observed that, the said Judgment and

the Judgment in *Corporation of the City of Nagpur Vs. its employees and others*; 1960 AIR (SC) 675 were squarely applicable to the facts of that case and the Petition was dismissed, as no case was made out to interfere in the order passed by the Labour Court.

12. In Kannam Venkati (*Supra*), it is observed that, the Gram Panchayat also collects tax and its functions includes maintaining the roads, drains, markets, street lights, water supply, etc. and considering the nature of functions that have to be rendered by the Gram Panchayat, it was treated as an industry.

13. Coming to the case at hand, it is clear from the impugned Award that, the Petitioners - Gram Panchayat submitted their Say below Exhibit - C-1 and raised their contentions. If the copy of communication by the Petitioners - Gram Panchayat, addressed to the In-charge Security, Labour Court, Ahmednagar, is the same reply filed before the Labour Court, as it appears so, one of the contentions was in respect of the Resolution dated 25/02/2025, by which the Respondent was appointed as the Gram Panchayat employee. It was contended that, the meeting was adjourned for want of Coram and despite that, the Resolution was passed without there being Coram of the meeting. Another contention raised was

that, due to non-cooperation / conduct of the Respondent, the Petitioners – Gram Panchayat had to appoint another person on permanent basis. The impugned order do not show that, the said contentions were considered. Though, as seen from the impugned Award, the Petitioners – Gram Panchayat did not cross-examine the Respondent before the Labour Court, the said two issues / contentions raised by the Petitioners – Gram Panchayat in their Say / Written Statement ought to have been considered.

14. The copy of letter sent by the Respondent to the Labour Officer-cum-Mediator, dated 17/09/2016 mentions that, the Petitioner – Gram Panchayat was receiving grants from the Government from April – 2014 for the posts in the approved staffing pattern, and therefore, no financial liability was shouldered by the Gram Panchayat. When this is the position and when the Petitioner – Gram Panchayat has already appointed one another person in place of the Respondent, the same needs consideration by the learned Labour Court. True it is that, the industrial dispute is to be dealt with as per the provisions of the Industrial Dispute Act, 1947; the above aspects referred in Paragraph No.13 above, as well as those mentioned in this Para, are relevant. Thus, the matter needs

re-consideration by the learned Labour Court after giving opportunity to all the sides, in accordance with law, and therefore, the matter is required to be remanded to the learned Labour Court. Hence, the following order :

ORDER

- [I] Writ Petition is partly allowed.
- [II] The impugned order / award dated 09/02/2021 in Ref. (IDA) No.05/2018, passed by the learned Labour Court, Ahmednagar, is quashed and set aside.
- [III] The matter is remanded to the learned Labour Court, Ahmednagar for re-consideration and decision after giving opportunity to all the sides, in accordance with law.
- [IV] The parties shall appear before the learned Labour Court, Ahmednagar on **22nd December, 2025**.
- [V] Writ Petition stands disposed off accordingly.

[NEERAJ P. DHOTE, J.]