



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO. 10377 OF 2024

Kausarbi Hilal Patel

Age : 55 Years, Occu : Household

Presently working as Sarpanch of Village -Kandari

R/o. Village-kandari,

Taluka-Dharangaon District- Jalgon

Maharashtra

...Petitioner

VERSUS

1. The State Of Maharashtra
Through Its Principal Secretary
Rural Development & Panchayat Raj Department,
Mantralaya, Mumbai

2. The Ld. District Collector,
Jalgaon

3. The Chief Executive Officer,
Zilla Parishad, Jalgaon

4. The Block Development Officer
(Class-1) Panchayat Samiti, Dharangaon

5. Taher Abdul Patel
Age – 50 years Occupation-Agriculture

6. Shakil Vedu Patel
Age- 48 years Occupation-Agriculture

7. The Gram Sevak
Office of Gram Panchayat Kandari
Village – Kandari,
Taluka- Dharangaon District- Jalgaon

...Respondents

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Mr. Jitendra Vijay Patil, Advocate for the Petitioner

Mr. V. S. Badakh, AGP for Respondents/State
Me. B. R. Warma, Advocate for Respondent Nos.5,6,

...

CORAM : ROHIT W. JOSHI, J.
DATED : 11th JULY 2025

ORAL JUDGMENT :-

1. The petitioner was elected as the member of Grampanchayat Village Kandari, Taluka Dharangaon, Dist Jalgaon. Thereafter, he was also elected as Sarpanch of Grampanchayat. The Collector, Jalgaon has vide order dated 12.09.2024 passed under Section 7 and 36 of the Maharashtra Village Panchayats Act, 1958 incurred disqualification on account of failure to hold four meetings of Gramsabha and 12 monthly meetings of Grampanchayat as per Section 7 and 36 respectively.

2. The dispute in the matter pertains to Gramsabha for the month of August 2021 and meeting of Grampanchayat for the month of September 2021. The case of the petitioner is that the Gramsabha meeting for the month of August 2021 and monthly meeting of Grampanchayat for the month of September 2021 were held. However he contends that at the relevant time, the Secretary of Grampanchayat was absconding due to a criminal case and subsequently he was suspended from service w.e.f. 30.08.2021 and

therefore the records of Grampanchayat could not be taken from him. The learned Advocate contends that as a consequence of this the minutes of Gramsabha held in the month of August 2021 and monthly meeting held in September 2021 were recorded in the separate book and not in the regular record book. The learned Advocate therefore contends that the findings in the order that meetings were not held are incorrect and unsustainable. In the alternative he places reliance on judgment dated 15.03.2023 passed by this Court in the matter of ***Pundlik Tulashiram Sapkale Vs. The State of Maharashtra & Ors.*** in ***Writ Petition No.1023 of 2023*** to contend that absence of Gramsevak is a reason good enough for not conducting Gramsabha or a monthly meeting. The contention of the learned Advocate is that failure to hold 4 Gramsabhas and 12 monthly meetings of Grampanchayat by itself cannot be ground for disqualification under Sections 7 and 36 respectively of the Act. His contention is that disqualification under the said provisions is incurred only when the Collector arrives at a satisfaction that the failure was without any sufficient cause. Absence of Secretary, according to the learned Advocate for the petitioner is a sufficient cause for failure to hold meeting. The contention raised by the learned Advocate is supported by the judgment of this Court in the matter of ***Pundlik Tulashiram Sapkale (supra)***.

3. However, the facts of the present case, are slightly different. In the present case, the petitioner positively asserts that Gramsabha was indeed held in the month of August 2020. Likewise, he also contends that monthly meeting was held in the month of September 2021. Since the contention is that meetings of Gramsabha and Grampanchayat were infact held despite absence of Secretary, absence of Secretary cannot be portrayed as sufficient cause for not holding the meeting.

4. The Collector while passing the impugned order disbelieved the evidence produced on record by the petitioner in support of the contention that the meeting was infact held. It will be pertinent to mention that the minutes of Panchayat meeting held for the month of November 2021 are not in dispute. The said minutes record that monthly meeting was not held for September 2021. The said minutes are signed by the petitioner as Sarpanch and other members of the Grampanchayat. In that view of the matter the contention of the petitioner that monthly meeting for September 2021 was held cannot be accepted.

5. As regards meeting held in August 2021, the same is disbelieved because a separate proceeding book was maintained for

the said meeting. As regards Gramsabha for the month of August 2021 perusal of the order wherein contents of report by Block Development Officer are reproduced will reveal that the Gramsabha was held although without following the prescribed procedure. The report indicates violation of breach of statutory provision and on that basis it is observed that the alleged Gramsabha was not a legally convened Gramsabha. The Collector while passing the impugned order has made an observation that the evidence produced on record by the petitioner with respect to the meeting of Gramsabha for the month of August 2021 does not inspire confidence. However, he has not recorded any specific reason for the same. The report also does not specifically state that Gramsabha for the month of August 2021 was not held.

6. In view of the aforesaid, the only inference that can be drawn was although Gramsabha held in the month of August 2021 it was not convened in accordance with law. What is contemplated under Section 7 of the Act is that a Sarpanch can be disqualified if there is a failure on his part to convene four Gramsabha meetings without any justifiable cause. Mere fact that procedure prescribed by statute is not scrupulously followed for convening Grampanchayat is not ground for

disqualification under Section 7 of the Act. The provision will have to be interpreted strictly in that view of the consequence of unseating elected representatives. In the considered opinion of this Court the order impugned is unsustainable to the extent of Section 7 of the Act.

7. However, as observed above, the findings with respect to failure to hold monthly meeting for the month of September 2021 are supported by express admission by the petitioner in the monthly meeting held on 02.11.2021. In that view of the matter, the order of disqualification under Section 36 will have to be upheld.

8. By the impugned order the Collector has held that the petitioner has incurred disqualification from the office of Sarpanch and Member. However under Section 36 the Collector does not have authority to pass order of disqualification against a member of the Grampanchayat. In that view of the matter, the petition is **partly allowed**. Disqualification of the petitioner as 'Sarpanch' under Section 7 of the Act is set aside however his disqualification as 'Sarpanch' under Section 36 of the Act is maintained. Disqualification of the petitioner as member is also set aside. The petitioner shall continue to hold office of member of Grampanchayat.

9. Writ petition is disposed of accordingly.

[ROHIT W. JOSHI, J.]