



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

WRIT PETITION NO.13184 of 2023

Gulab s/o. Jagannath Patil,
Age 46 years, Occ. LIC Agent
R/o. At Pimpri Pra-Utran, Po.Mundane,
Tq. Parola, Dist. Jalgaon,
At present At Po. 23, Abhiyanta Nagar,
Deopur, Dist. Dhule. **.. PETITIONER**

VERSUS

- 1] The State of Maharashtra
Through the Secretary,
Rural Development Dept., Mantralaya,
Fort-Mumbai-32.
- 2] The Additional Commissioner,
Nashik Division, Nashik
(Gram Panchayat Department)
- 3] The State Election Commissioner
- 4] The Collector, Jalgaon

(Since By-election process is underway
Hence necessary parties to the petition)

(Copies for R-3 & 4 to be served on
Standing Counsel)
- 5) President, now Administrator
Chief Executive Officer,
Zilla Parishad, Jalgaon.
- 6) The Block Development Officer,
Panchayat Samiti Parola,
Dist. Jalgaon.

- 7) The Tahsidar
Tq. Parola, Dist. Jalgaon.
- 8) The Gramsevak,
Grampanchayat Pimpri Pra-Utran,
At-Primpri Pra-Utran, Po. Mundane,
Tq. Parola, Dist. Jalgaon.
- 9) Rajendra s/o. Ananda Visave
Age 35 years, Occ. Rojgar-sevak
Gram panchayat Pimpri Pra-Utran,
R/o. At Pimpri Pra-Utran, Po. Mundane,
Tq. Parola, Dist. Jalgaon.
- 10) Kailas Ragho Patil,
Age 60 years, Occ. Agriculture
R/o. Pimpri, Tal : Parola,
Dist : Jalgaon.
- 11) Sarpanch, Grampanchayat Pimpri,
Smt Jyostna Sunil Pagare,
Age- 40 years, Occu. Sarpanch,
R/o. Pimpri Pra-Utran, Post-Mundane,
Tq-Parola, Dist – Jalgaon. **.. RESPONDENTS**

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Mr.A.D.Khot, Advocate for the petitioner.
 Ms.M.N.Ghanekar, AGP for the respondent-State.
 Mr.V.V.Gujar, Advocate for respondent Nos.5 and 6
 Mr.L.V.Sangit, Advocate for respondent no.9.
 Mr.M.D.Deshpande, Advocate for respondent no.10.

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CORAM : ARUN R. PEDNEKER, J.

DATE : 19.11.2025

ORDER :

1] By the present Writ Petition, the petitioner

challenges the impugned judgment and order dated 02.08.2022 passed by the Administrator-cum-Chief Executive Officer, Zilla Parishad, Jalgaon, disqualifying the petitioner under Section 40 of the Maharashtra Village Panchayats Act, for having not attended the monthly meetings of the Grampanchayat for 6 consecutive times and also the order dated 22.09.2022 passed by the Additional Commissioner, Nashik Division, Nashik in Grampanchayat Appeal No.62/2022, upholding the order of disqualification of the Administrator-cum-Chief Executive Officer, Zilla Parishad, Jalgaon.

2] Brief facts of the case are that the petitioner was elected member of Village Panchayat, Pimpri, Taluka Parola, District Jalgaon on 29.01.2021 from OBC category. On 23.06.2021, the petitioner was arrayed as an accused in a case bearing FIR No.234/2021, registered on 23.06.2021 with Parola Police Station for the offence punishable under the Atrocities Act, so also, under Indian Penal Code. In the said crime, on 26.05.2022 the Investigation Officer has

submitted 'B' Summary report bearing No.45/2022. Pending investigation in the FIR, the petitioner filed Criminal Bail Application No.392 of 2021 before the Sessions Court, Amalner. The Additional Sessions Judge, Amalner, by order dated 10.01.2022 granted interim protection in favour of the petitioner, by imposing condition that he would not enter the village, in connection with the aforesaid FIR. Thereafter, by order dated 17.12.2021, the Additional Sessions Judge, Amalner has granted anticipatory bail in favour of the petitioner by imposing condition that the applicant shall not enter into village Pimpri, Taluka Parola, District Jalgaon. The petitioner intimated the order of the Sessions Court to the Sarpanch, Village Panchayat on 31.01.2022.

3] One employee of the Village Panchayat submitted a complaint on 27.05.2022 to the Extension Officer, Panchayat Samiti, Parola regarding absence of the petitioner to the meeting. Thereafter, on 01.06.2022, the Gram Sevak has submitted a complaint to the Panchayat

Samiti in terms of Section 40 (B) of the Maharashtra Village Panchayats Act. On 03.06.2022, the Block Development Officer submitted his report about the absence of the petitioner. The petitioner submitted a reply on 12.07.2022 by e-mail explaining his absence from the meetings. Thereafter, on 02.08.2022, the Administrator-cum-Chief Executive Officer, Zilla Parishad, Jalgaon passed an order declaring the petitioner disqualified. Against the said order, the petitioner preferred Appeal before the Additional Commissioner, Nashik and the Additional Commissioner, Nashik by order dated 22.09.2022 dismissed the said Appeal. As such, the present Writ Petition is filed.

4] The learned counsel for the petitioner submits that false FIR bearing FIR No.234/2021 was registered against the petitioner for the offence punishable under the Atrocities Act, so also, Indian Penal Code. Thereafter, the petitioner filed Criminal Bail Application No.392 of 2021 in connection with the aforesaid FIR and the Additional Sessions Judge, Amalner, by order dated 10.01.2022 in

Criminal Bail Application No.392 of 2021 has granted interim protection in favour of the petitioner by imposing condition No. iv, as under :

iv) The applicant shall not enter into village Pimpri, Tal. Parola, District-Jalgaon, for next six months, or till submission of final report by the investigating officer, whichever is earlier.

5] Thereafter, the Additional Sessions Judge, Amalner, by order dated 17.12.2021 has confirmed the order dated 10.01.2022, by imposing following condition :

iii) The applicant shall not enter into village Pimpri, Tal. Parola, District-Jalgaon, till final order on this application.

6] The learned counsel for the petitioner submits that the petitioner is disqualified for not attending the meeting of the Village Panchayat from 31.12.2021 to 30.06.2022. He further submits that during the said period, the petitioner was prohibited to enter into the village by the order of Sessions Court and in view of the same, the petitioner could not attend the meetings. He further submits that the petitioner was also given intimation to the Sarpanch on 31.01.2022.

7] Section 40 (1) (a) of the Maharashtra Village Panchayats Act provides that any member of a panchayat who, during his term of office, is absent for more than four consecutive months from the village, such absence not being on account of his being a Chairman or Deputy Chairman of a Panchayat Samiti, unless leave not exceeding six months so to absent himself has been granted by the panchayat, or absent himself for six consecutive months from the meetings of the panchayat, without the leave of the said panchayat, shall cease to be a member and his office shall be vacant.

8] In the instant case, it is seen from the record that the petitioner has made an application for leave to attend the panchayat meeting to the Sarpanch of the Village Panchayat on 31.01.2022. In this regard, it is observed in the order dated 22.09.2023 that the petitioner had applied to the Sarpanch of the Village Panchayat by an application dated 31.01.2022 for leave of six months. Para no.4 of the order dated 22.09.2023 reads as under :

४. अपिलार्थी यांनी सरपंच, ग्रामपंचायत पिंप्री प्र.उ., ता. पारोळा यांना दि.३१/०१/२०२२ रोजी सहा महिन्यांसाठी अनुपस्थित राहण्यास परवानगी मिळणेबाबतचा अर्ज दिला होता. परंतु अपिलार्थी यांचे गैरहजर राहणेबाबतच्या अर्जावर ग्रामपंचायतीने गट विकास अधिकारी, पंचायत समिती, पारोळा यांनी केलेल्या चौकशी अहवालाचे अवलोकन करता अपिलार्थी यांनी दि.३१/१२/२०२१ ते दि.३०/०६/२०२२ या कालावधीत ग्रामपंचायतीचे ग्रामसभा / मासिक सभेला विनापरवानगी गैरहजर राहिले असल्याचे सिध्द झाले आहे.

9] The application for leave was made by the petitioner and the record does not indicate as to whether such application was rejected by the concerned Authority. In the instant case, once the application for leave is made, absence of the petitioner is *bona fide* and it is in pursuance of the order of the Sessions Court in the Bail Application. In the said criminal case, the Investigation Officer has filed 'B' summary report and during the absence period, bail order was in force and one of the condition was that the petitioner shall not enter into the village Pimpri, Taluka Parola, District Jalgaon. Considering the said fact, the orders passed by the authorities below are not just and proper.

10] In view of the same, the Writ Petition is allowed. The impugned orders passed by the Administrator-cum-Chief Executive Officer, so also, by the Additional Commissioner, Nashik Division, Nashik in Grampanchayat Appeal No.62/2022, are quashed and set aside. This Court, by order dated 19.10.2023, has observed that the result of the election shall be subject to the outcome of the present writ petition. Thus, the petitioner is reinstated in his original post as a member of village panchayat. Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE

DDC