



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

WRIT PETITION NO. 15079 OF 2023

Prayagbai w/o Sitaram Rathod,
Age 60 Years, Occu. Household and Sarpanch,
R/o. Khorad Sawangi, Tq. Mantha,
District Jalna.

...PETITIONER.

VERSUS

1. The State of Maharashtra

Through its Principal Secretary,
Rural Development Department,
Maharashtra State, Mantralaya, Mumbai-32.

2. The District Collector,

Jalna, Dist. Jalna.

3. The Block Development Officer,

Panchayat Samiti, Mantha,
Dist. Jalna.

4. The Gramsevak,

Grampanchayat Khorad Sawangi,
Tq. Mantha. Dist. Jalna.

5. Sangita Rajesh Pawar,

Age: 35 Years, Occu. Household & Member,
R/o. Khorad Sawangi, Tq. Mantha,
Dist. Jalna.

6. Gulab Prabhu Rathod,

Age : 65 Years, Occu: Agri & Member,
R/o. Khorad Sawangi, Tq. Mantha,
District Jalna.

7. Sandip Pralhad Thakare,

Age : 35 Years, Occu: Agri & Member,
R/o. Khorad Sawangi, Tq. Mantha,
District Jalna.

8. Raju Shamrao Sable,

Age : 47 Years, Occu. Agri & Member,
R/o. Khorad Sawangi, Tq. Mantha,
District Jalna.

9. Milan Shriram Jadhav,

Age : 30 Years, Occu. Household & Member,
R/o. Khorad Sawangi, Tq. Mantha,
District Jalna.

10. Arunabai Ramesh Jadhav,

Age : 32 Years, Occu. Household & Member,
R/o. Khorad Sawangi, Tq. Mantha,
District Jalna.

...RESPONDENTS.

Mr.V. D. Sapkal, Senior Advocate i/by Mr. S. G. Kawade, Advocate for the
Petitioner.

Smt. R. R. Tandale, AGP for Respondent-State.

Mr. V. G. Deshmukh for Respondent Nos. 5 to 8 and 10.

Mr. Sambhaji S. Tope, Advocate for the Respondent No.9.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 11th DECEMBER 2024
PRONOUNCED ON 22nd JANUARY 2025

ORDER :-

1. Heard the learned Advocates for the parties.
2. A Sarpanch held to be disqualified by the District Collector, Jalna in a Dispute No.2022/G.A./G.P.R./CR-11 filed by the Respondent Nos.5 to 10, members of same Gram Panchayat, has approached this Court challenging the Judgment and Order passed by the learned Collector on 24th November 2023.
3. Respondent No.1 is the State. Respondent No.2 is the District Collector, Jalna. Respondent Nos.3 and 4 are the Block Development Officer, Panchayat Samiti Mantha, and the Gramsevak of Gram Panchayat Khorad Sawangi, Tq. Mantha, respectively.
4. The petitioner is held to be disqualified for not holding the meetings as required under Sections 7 and 36 of the Maharashtra Village Panchayats Act, 1958 (for short "the said Act"). Section 7 of the said Act requires that a Sarpanch should hold atleast four gram sabha meetings in Gram Panchayat in every financial year. As per Section 36, it is mandatory to hold the Gram Panchayat Meetings every month. The

failure to hold such meetings incurs a disqualification to hold a post of Sarpanch.

5. The facts, in short, giving rise to the petition are as below:-

6. The petitioner and Respondent Nos.5 to 10 contested the election to the Gram Panchayat. They were elected as members of Gram Panchayat. In the meeting dated 10th February 2021, the petitioner came to be elected by other members of the Gram Panchayat to the post of Sarpanch. It is the case of the Respondent No.5 to 10 that the petitioner thereafter did not hold a single meeting from February 2021 till March 2022. Though, it was possible to hold the meetings in online mode, the same were not held. In the above period, only one meeting was held on 23rd January 2022 in respect of allotment of *Gharkul* Scheme. It is further alleged that, during the financial year from 1st April 2022 till January 2023, she did not hold the meetings on 1st May 2022 and 2nd October 2022. No intimation was given to the Gram Sevak. On inquiry, the Gram Sevak told that he did not receive any instructions from the petitioner to hold the meeting. This information was given under Right

to Information Act. In the financial year 2022-23, the meetings in September 2022 and December 2022 were not held. In September 2022, the meeting was postponed. However, it was not taken thereafter. Even in the month of December 2022, meeting was called on 29th December 2022 and the same was adjourned. However, no meeting was held on the adjourned date.

7. With the above allegations, the Respondent Nos.5 to 10 filed complaint/dispute before the learned District Collector bearing Dispute No.2022/G.A./G.PR./CR.-11. The Collector issued notice calling say of the petitioner. It is the case of the petitioner that the dispute is filed because of rivalry. The meetings, in fact, were held by following norms as for the relevant period there was covid-19 pandemic. In her support, the petitioner filed affidavits of other Gram Panchayat members.

8. The learned Collector called record of Gram Sabha Register from Respondent No.3. It is recorded that the Gram Sabha meetings were held on 12th May 2021, 16th November 2021, 25th November 2021, 24th October 2021, 28th January 2022 and 24th April 2022. So far as the

monthly meetings are concerned, it is held that meetings were shown to have held on 14th February 2022, 24th March 2022, 26th April 2022, 26th June 2022, 29th August 2022, 26th September 2022, 21st October 2022, 14th November 2022 and 29th December 2022. It is recorded on the basis of report from the Block Development Officer that the said meetings are not held as per rules and in some cases, those were held without sufficient quorum. The meetings dated 26th September 2022 and 29th December 2022 were adjourned. Thereafter, these meetings were not held on any adjourned dates. The learned Collector allowed the dispute by order dated 24th November 2023.

9. Mr.Sapkal, the learned Senior Advocate, for the petitioner vehemently argued that, the learned Collector has failed to appreciate the record presented before him. The petitioner has held the meetings as required under the law. What is the material is calling of the meetings by issuing notice. In the present case, meetings were called. However, for want of quorum, the said meetings could not be held. The learned Collector has passed an order on different charges which were not levelled against the petitioner. No proper charges were framed in

the notice given to the petitioner. Though the report was called from Gram Sevak and Block Development Officer, no copies of the report were given to the petitioner. The respondents did not attend the meetings and, therefore, there was no sufficient quorum for which the meetings were adjourned. The respondents deliberately did not attend the meetings and, now have made allegations that the meetings were not held.

10. So far as the Gram Sabha is concerned, it is the defence of the petitioner that, though the meetings were called, people did not attend the meetings. The Collector has passed an order with extraneous consideration. He relied upon the judgment of the Hon'ble Apex Court in the case of *Ravi Yashwant Bhoir Vs. District Collector, Raigad and Ors.*¹ and the judgment of this Court in the case of *Sow. Pratibha w/o Sanjay Hulle Vs. The Additional Collector, Latur and Ors.*² He thus prays for quashing and setting aside the order passed by the learned Collector.

11. Mr. Tope, the leaned Advocate for the Respondent No.9

1 AIR 2012 SC 1339

2 2010(4) ALL MR 728

has vehemently opposed the petition. He submits that even the petitioner has accepted that all the meetings were not held, it is a mandate of law to hold monthly meetings. The Collector had rightly issued notice. The petitioner appeared and filed say before the learned Collector. No grievance was made of not framing specific charge. In the say, there is no reference that for want of quorum, fresh meeting was called. Looking to the wording of Sections 7 and 36 clearly shows that these provisions are mandatory and there is no dispute. No case is made out that the meetings were not held for sufficient reasons. The learned Collector has reached to the conclusion only after verifying the record called from Gram Sevak and Block Development Officer. It was necessary for the petitioner to hold the meetings on adjourned dates. He relied upon the Government Resolutions dated 12th May 2020 and 15th January 2021 where the Government had permitted the Gram Panchayat to hold meetings by following covid-19 protocol. He submits that, this itself shows that, calling of the meeting is mandatory. He relies on the judgments of this Court in the cases of *Kusum Chandrakant Kachare Vs.*

*State of Maharashtra and Ors.*³, *Pralhad Bhikaji Bargaje Vs. State of Maharashtra and Ors.*⁴ and *Salimbi Mubarak Tamboli Vs. The State of Maharashtra and Ors.* decided on 12th March 2019 in WP/10956/2018.

12. Learned AGP supports the order passed by the learned Collector. He submits that holding of the meetings as per Sections 7 and 36 of the Maharashtra Village Panchayats Act is mandatory. The petitioner has failed to hold such meetings. She thus prays for rejection of the writ petition.

13. In rejoinder, Mr.Sapkal, the learned Senior Advocate submits that the dispute was filed on 12th January 2023. The reply was filed on 4th July 2023. A finding recorded by the Collector is contrary to the report dated 6th November 2023. After the report was submitted, no sufficient time was given to go through the record. The report of the Gram Sevak even shows that, there was meeting held every month. The Collector has ignored this fact. On receipt of record and the report from the authorities, it was necessary to call for explanation from the petitioner.

3 2019(1) Bom.C.R. 467

4 [2016 (6) Mh.L.J. 900]

14. Having considered the submissions and the record, this Court finds that the report shows that there was failure on the part of the petitioner in holding all the monthly meetings as required under Section 36 and special meetings required in one financial year. The Collector has considered the report and the submissions in detail and has recorded the findings. Before the Collector, no grievance was made by the petitioner for not framing of specific charges.

15. Looking at the complaint it is clearly seen that, in the complaint, details were sufficiently given for not holding the meetings etc. The petitioner has submitted say and had also filed additional say and written argument. The learned Collector had come to the conclusion that the petitioner failed to call the monthly meetings for September 2022 and December 2022. No general meetings were held for a period from 1st April 2022 till January 2023. While deciding the dispute, the learned Collector has taken into consideration the information supplied under Right to Information Act to the Respondent No.5 to 10. He has also recorded the months for which the meetings were held. For seven

meetings though the proceedings is recorded, date of such meetings are not recorded.

16. The Government had issued a circular dated 12th May 2020. By said circular holding of the Gram Panchayats meetings was stayed for temporary period. By another circular dated 15th January 2021, it was directed to hold the meetings by following covid-19 protocol. Thus, from 15th January 2021, the meetings were permitted.

17. So far as the judgment in the case of *Ravi Bhoir* (supra) is concerned, the Hon'ble Apex Court held that, removal of the Sarpanch is serious thing and therefore, law needs to be scrupulously followed. This case is about disqualification of elected member to the Municipal Council. It is held that, merely not calling of the meeting does not entail disqualification in absence of any imputation of motive. Not calling the meeting by itself is not enough to prove the charge. Though the charge was proved of not calling the meetings, it does not warrant and order of removal accepting the explanation given by the appellant.

18. In the case of ***Pratibha Sanjay Hulle*** (supra), this Court specifically considered the case under Sections 7 and 36 of the Bombay Village Panchayats Act. In that case the applications and complaints made to the Additional Collector were not forwarded to the Sarpanch. The notice issued by the Collector did not disclose charges. In that view it was held that, there was no transparent procedure adopted by the Collector and order of the Collector suffers from non-application of mind. In that view of the matter, the order passed by the learned Collector was quashed and set aside.

19. So far as the judgment in the case of ***Salimbi Mubarak Tamboli*** (supra) is concerned, this Court has taken a strict view of the compliance of Sections 7 and 36 of the Maharashtra Village Panchayats Act. It is held that, the intent and object of the legislature is clear that the Sarpanch shall be responsible for convening the monthly meeting by relying on the judgment of the Hon'ble Apex Court in the case of ***S. Sundaram Pillai and Ors. Vs. V. R. Pattabiraman and Ors.***⁵

5 1985 (1) SCC 591

20. This Court considered the Judgment in case of **Pratibha Sanjay Hulle** (supra), it is considered that in the case of **Pralhad Bhikaji Bargaje** (supra) that the petitioner therein was knowing the allegations against him as the copy of complaint was served upon him. This Court considered that from the reply it is seen that the Sarpanch was aware about the allegations against him. The burden was therefore upon the Sarpanch to show sufficient cause for not holding Gram Sabha. It is held that he failed to discharge that burden of proof. Paragraph No.12 is reproduced as below:-

“12. In the case of Mangala Dhanraj Kalbande Vs. State of Maharashtra and Ors.⁶ observations are made with regard to necessity of presence of Sarpanch in the meeting which is called as per the aforesaid provision. There is no dispute over the proposition made in the said case. In the case of Pratibha (supra) it is observed that specific charges are to be informed to the person like present petitioner as the proceeding involves penal consequences like disqualification. There is no dispute over this proposition. This Court has already quoted the material involving specific allegation against the present petitioner and it cannot be said that he did not know that there is allegation against him that he did not hold the specified number of Gram Sabhas. The reply given by him itself shows that he knew as to what was the charge against him. The burden to show that there was “sufficient cause” for not holding Gram Sabha was on the Sarpanch and he failed to discharge that burden of proof.

21. In the case of ***Kusum Chandrakant Kachare*** (supra), this Court held that the convening meeting as per Sections 7 and 36 is mandatory and non holding such meetings incurs disqualification.

22. On going through the legal position. It needs to be seen as to whether in the present case the petitioner was aware about the exact case, she was required to answer. The petitioner had submitted say, additional say and written argument. There is nothing in any of the say and written argument that she was not given copy of the complaint/dispute application. Thus, she was aware about the allegations made against her. She had also given her explanation for not calling the meetings. The Collector has considered all the relevant aspects. So far as judgment in the case of ***Pratibha Sanjay Hulle*** (supra) is concerned, it is seen that neither the complaint/application was given to the petitioner therein, nor specific charges were framed by the Collector. In that view, this Court observed that the petitioner was not aware as to what allegations she has to meet. In the present case, from the say and written argument, it is clearly seen that the copy of the dispute/complaint and application was given to the petitioner. There is

some substance in the grievance that copy of the report of the Gram Sevak and Block Development Officer were not given to the petitioner. However, it was for the petitioner to show that the meetings were held and in case those were not held, it was for the petitioner to show sufficient reason for not holding the meeting. The petitioner, in this case, has failed to show sufficient reason for not holding the meetings. This Court does not find any illegality committed by the learned Collector in deciding the dispute. Taking holistic approach, this Court finds that no case is made out to interfere with the order passed by the learned Collector. Hence, the following order:-

ORDER

- (i) Writ Petition stands rejected.
- (ii) No order as to costs.

[KISHORE C. SANT, J.]

LATER ON:

1. Needless to say that, interim relief stands vacated.

[KISHORE C. SANT, J.]