



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

WRIT PETITION NO. 386 OF 2025

Rajesh Narayan Wadekar,
Age : 53 years, Occu. : Sarpanch,
R/o. A/P Wavadade, Tq. Dist. Jalgaon .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Department of Rural Development and Panchayat
Raj, Mantralaya, Mumbai.
2. District Collector,
Jalgaon.
3. Anil Atmaram Patil,
Age : 40 years, Occu. : Gram Panchayat Member,
R/o. A/P Wavadade, Tq. Dist. Jalgaon.
4. Rajendra Ramdas Marathe,
Age : 40 years, Occu. : Gram Panchayat Member,
R/o. A/P Wavadade, Tq. Dist. Jalgaon.
5. Rakesh Namdev Bhil,
Age : 28 years, Occu. : Gram Panchayat Member,
R/o. A/P Wavadade, Tq. Dist. Jalgaon.
6. Sau. Bharti Santosh Pawar,
Age : 30 years, Occu. : Gram Panchayat Member,
R/o. A/P Wavadade, Tq. Dist. Jalgaon.
7. Sau. Ratnabai Mukund Patil,
Age : 44 years, Occu. : Gram Panchayat Member,
R/o. A/P Wavadade, Tq. Dist. Jalgaon.
8. Sau. Varsha Vinod Pawar,
Age : 30 years, Occu. : Gram Panchayat Member,
R/o. A/P Wavadade, Tq. Dist. Jalgaon. .. Respondents

Mr. Chaitanya V. Dharurkar, Advocate for the Petitioner.
Mr. K. N. Lokhande, AGP for Respondent Nos. 1 and 2.
Mr. Vijay B. Patil, Advocate for Respondent Nos. 3, 4 & 6 to 8.
Respondent No. 5 is served.

CORAM : KISHORE C. SANT, J.

Date on which reserved for order : 02nd April, 2025.

Date on which order pronounced : 10th June, 2025.

FINAL ORDER :-

. Heard the parties. By consent taken up for final hearing at the stage of admission.

2. The present petition is filed challenging the judgment and order dated 30.12.2024 passed by the learned District Collector, Jalgaon holding the petitioner disqualified to hold the post of Sarpanch. The present petitioner came to be elected as member in election held to Grampanchayat in January 2021. He belongs to scheduled caste. Since the post was reserved for person belonging to scheduled caste category the petitioner was elected to the post of Sarpanch.

3. The respondent Nos. 3 to 8 moved an application to the learned Collector praying to hold the petitioner as disqualified. The learned Collector pursuant to receipt of the dispute issued notice to the petitioner stating that the dispute is under Section 7 of the Maharashtra Village Panchayats Act (for short "the said Act") and called for

explanation. The petitioner offered his explanation stating that he has held the Gramsabha meetings and monthly meetings as required under the said Act. It is the case of the petitioner that the Gramsevak of the village was not working properly. The petitioner therefore, had filed reports against him. Other members were not happy as the petitioner became Sarpanch though belongs to scheduled caste. The petitioner was even required to file complaint against the members under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (for short "Atrocities Act"). On 05.04.2022 and 26.01.2024 the petitioner was abused in the name of caste. It was thus submitted that it is because of these reasons complaint is made. The learned Collector by way of impugned judgment and order passed the order and allowed the dispute. The petitioner is, therefore, before this Court.

4. The learned advocate Mr. Dharurkar for the petitioner vehemently argued the matter. He pointed out that on many occasions this petitioner has reported to the Block Development Officer. There were meetings held from time to time. The learned Collector issued vague notice without mentioning exact charges which the petitioner was required to meet and held the enquiry which is against the principles of natural justice. He ultimately prays for setting aside the impugned judgment and order. The learned advocate relies upon the

judgment in the case of **S. L. Kapoor Vs. Jagmohan and others** reported in **AIR 1981 SC 136**.

5. The learned advocate Mr. Patil for respondent Nos. 3, 4 and 6 to 8 vehemently opposes the petition. He submits that, the learned Collector has rightly issued notice to the petitioner. The petitioner even filed a detailed reply which shows that he was clearly aware of the charges against him. During the enquiry petitioner sought time on many occasions for filing reply. Before the learned Collector he never raised any grievance about not framing specific charges. There was a committee for verification of the allegations formed much earlier than this complaint. He further submits that, now the charge is already handed over to Up-sarpanch. The learned advocate also made a submission that the proceeding under Section 39 of the Act is pending against the petitioner for committing acts of misconduct in discharge of his duties and for disgraceful conduct. He prays for rejection of the writ petition.

6. The learned A.G.P. also supports the order. He submits that the order of the learned Collector shows that the learned Collector has considered the report filed by the committee. It was found that the petitioner did not furnish record of holding Gramsabha meeting for the month November 2023. He pointed out that, the learned Collector has

observed that the meetings were called without following proper procedure and on that the learned Collector has passed an order.

7. This Court has heard the arguments. From the application/dispute filed by the respondents before the learned Collector it is seen that, there is no reference of any meeting not held by the petitioner. The allegations mainly are about irregular working by the petitioner and not giving the work by calling E-tender. The work is done without taking other members in confidence etc. The funds of the Grampanchayat are misappropriated. The proceedings are fabricated. There is no specific allegation of not holding the meeting. Notice issued by the learned Collector dated 25.06.2024 only shows that the notice is issued under Section 7 of the said Act. There is nothing in the notice to indicate that which of the meetings is not held by the petitioner. Notice only states that a complaint is received on 10.06.2024 and the petitioner was directed to remain present on 05.07.2024. The petitioner gave explanation and gave details of the meetings which were held. It is also specific case of the petitioner that many of the members are against him only because they do not wanted a scheduled caste person to become a Sarpanch of the village. The complaints were made by him on these grounds in the year 2022 itself i.e. much prior to this meeting. On 26.01.2024 even an offence was

registered under the Atrocities Act against the members of Grampanchayat.

8. Looking to the explanation by the petitioner and looking to the notice and the application it is clearly seen that, no dispute was filed with specific allegations. The allegations are omnibus and vague. The learned Collector still issued notice under Section 7 of the said Act when no case was made out in the application/dispute filed by the respondents. The order of the learned Collector shows that all the allegations are considered which were not made in the application at all. The order shows that there was a report received from Block Development Officer, Panchayat Samiti, Jalgaon dated 09.05.2024. In the report it was submitted to take action under Section 7 of the said Act. The reasoning part of the order of the learned Collector shows that the learned Collector was satisfied that Gramsabha meeting of November 2023 was not held. No proper record was produced to show that the Gramsabha meeting of November 2023 was held. It is further observed that, no proper procedure was followed while holding the meeting. Looking to the above, this Court finds that a vague notice was given by the learned Collector. The dispute application itself was vague.

9. In the case of **S. L. Kapoor** (*supra*), the Hon'ble Apex Court has

held that, it is necessary to observe principles of natural justice before taking action. It is held that, even if the facts are admitted it does not follow that principles of natural justice need not be observed. Independent proof of prejudice is not necessary.

10. In the case of **Sunil Daulat Patil Vs. The State of Maharashtra and others** in Writ Petition No. 3419/2013 (Aurangabad), in similar facts, this Court observed that in the notice issued by the learned Collector under Section 7 of the said Act there were no specific charges mentioned so as to enable the petitioner to answer the said charges in his defence. The Court considered the judgment in the case of **Pratiba Sanjay Hulle Vs. Additional Collector & others** reported in **2010 (4) Bom. C.R. 700**. It was held that the basic principles of natural justice were not followed. By considering this, Court had quashed and set aside the order passed by the learned Collector by allowing the petition. It was kept open to the authorities to follow the procedure and take appropriate decision.

11. In the case of **Namdev s/o Sahebrao Lobhe Vs. Balwant Sambhaji Jagtap** in Writ Petition No. 3881/2024 with other connected matter, in somewhat similar facts, the writ petition was allowed and the order passed by the learned Collector was set aside.

12. In the present case, this Court finds that, even the dispute filed was vague without any specific charges. It is also not stated that the dispute is filed for not holding the meetings. The learned Collector has still issued notice under Section 7 of the said Act. Thus, the notice itself is vague. This Court, therefore, does not find force in alternative submission of Mr. Patil for respondent Nos. 3, 4, 6 to 8 that the case needs to be remanded.

13. Considering the record, an order passed by the learned Collector and the judgments discussed this Court finds that, a case is made out to allow the writ petition by quashing and setting aside the impugned order. Hence, the following order.

ORDER

(I) The writ petition is allowed in terms of prayer clause (B). The impugned judgment and order passed by the learned Collector dated 30.12.2024 is quashed and set aside. Consequences to follow.

(II) The writ petition stands disposed of.

(KISHORE C. SANT, J.)

. At this stage, the learned advocate for the respondents prays for stay to the effect of the order. He submits that, presently Up-sarpanch is holding the post of Sarpanch.

2. A request is opposed by the learned advocate for the petitioner.
3. However, in peculiar facts of this case, this order shall not be implemented for a period of four (04) weeks from today.

(KISHORE C. SANT, J.)

PS.B.