

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.16920 OF 2024

Hidayat Ahmad Nadaf

....Petitioner

V/S

State of Maharashtra & Ors.

....Respondents

Dr. Uday P. Warunjikar i/b Mr. Siddhesh Pilankar *for the Petitioner.*

Mr. B.B. Dahiphale, AGP *for Respondents / State.*

CORAM: SANDEEP V. MARNE, J.

DATE : 17 MARCH 2025.

P.C.:

1. The Petition challenges order dated 8 October 2024 passed by the Divisional Commissioner, Pune, rejecting the Appeal preferred by the Petitioner and confirming the order dated 22 August 2023 passed by Collector. Petitioner had raised the dispute under provisions of sub-section 3 of Section 29 of the Maharashtra Village Panchayats Act, 1958 (**the Act**) with regard to acceptance of his resignation in the meeting of the Panchayat held on 17 February 2023. The Collector has rejected the dispute by order dated 22 August 2023 and the Divisional Commissioner has confirmed the order passed by the Collector by his own order dated 8 October 2024.

2. I have heard Dr. Warunjikar, the learned counsel appearing for the Petitioner and Mr. Dahiphale, the learned AGP appearing for the Respondent/State.

3. The main submission of Dr. Warunjikar is that the Divisional Commissioner, Pune has earlier rejected Petitioner's Appeal by order dated 16 July 2024, which was passed in violation of principles of natural justice. Petitioner filed Writ Petition No.12222 of 2024 challenging the order dated 16 July 2024 passed by the Divisional Commissioner. The Petition was partly allowed by granting an opportunity to the Petitioner to attend hearing before the Divisional Commissioner with a direction to the Divisional Commissioner to decide the proceedings afresh. It appears that the Divisional Commissioner, after hearing the Petitioner has once again proceeded to reject Petitioner's Appeal by order dated 8 October 2024. According to Dr. Warunjikar the impugned order dated 8 October 2024 is a copy of earlier order dated 16 July 2024. Dr. Warunjikar would accuse the Divisional Commissioner of passing the very same order without even considering the submissions canvassed by the Petitioner during the course of personal hearing. True it is that some of the paragraphs in both the orders appear to be similar. However what needs to be considered is whether Petitioner was able to make out any case for succeeding in a dispute filed before the Collector under provisions of sub-section 3 of Section 29 of the Act. The statutory scheme of Section 29 of the Act is such that once a Member tenders his resignation to the Sarpanch and the resignation is taken up for discussion in the special meeting of the Panchayat, the resignation comes into effect at the end of the meeting. Though not specifically provided under Section 29 of the Act, this Court has repeatedly recognized right of a

Member to withdraw the resignation before the same is taken up for discussion in the meeting of Panchayat. In the present case, both Collector as well as Divisional Commissioner have concurrently held that Petitioner did not submit any writing withdrawing his resignation at any point of time before the resignation was taken up for discussion in the meeting of Panchayat. If the submission of Dr. Warunjikar is believed, it appears that the Petitioner virtually boycotted the meeting held on 17 February 2023. This would essentially mean that during the course of discussions on the resignation also, Petitioner did not express desire to withdraw the resignation. Petitioner has not questioned the genuineness of his signature in the resignation letter. The only plea raised by him is that the political party to which he is affiliated had taken resignation from him on previous occasion which was misused for the purpose of convening of special meeting on 17 February 2023. If the Petitioner genuinely believed that there was any misuse in respect of his previous resignation, he ought to have written to the Sarpanch immediately after acquiring knowledge about convening of meeting dated 17 February 2023 and ought to have withdrawn the resignation. The averments made in the dispute filed before the Collector would indicate that the Petitioner was present in the meeting held on 17 February 2023. However why he did not insist during the course of the said meeting that he was withdrawing the resignation has not been explained in any manner. Petitioner thus failed to avail opportunity of withdrawing the resignation either before convening of the

meeting or during the course of discussion on his resignation. In that view of the matter, even the benefit of right to withdraw resignation cannot be extended to the Petitioner.

4. The second point sought to be canvassed by Dr. Warunjikar is that the Collector has disqualified the Petitioner by order dated 22 August 2023. In my view, this appears to be an inadvertent error on the part of the Collector in using the particular terminology. The Collector has decided the dispute filed under provisions of sub-section 3 of Section 29 of the Act. Therefore mere error in use of the word 'disqualification' in the order dated 22 August 2023 would not change the nature of the order which essentially seeks to dismiss the dispute filed under provisions of Section 29(3) of the Act. It is however clarified that the order passed by the Collector shall not be read to mean as to Petitioner has incurred any disqualification.

5. After considering the overall conspectus of the case, I do not find any valid reason to interfere in the impugned order passed by the Divisional Commissioner. Petition is devoid of merits. It is accordingly **rejected**.

(SANDEEP V. MARNE, J.)

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