IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 294 OF 2025

Mohan Sadashiv Lawande **... Petitioner**

Versus

Sandeep Patilbuwa Jagtap and Ors **... Respondents**

Mr. Prasad B. Kulkarni *for the Petitioner.*

Mr. Chaitanya Nikte *a/w Mr. Swapnil Sangle & Ritvij Kale i/b Mr. Prajit S. Sahane for Respondent No.1.*

Ms. A. A. Nadkarni, *AGP for Respondent Nos.2 to 6-State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 15 JANUARY 2025.

P.C. :

1) The Petition challenges order dated 27 November 2024 passed by the Additional Divisional Commissioner, Pune declaring the Petitioner as disqualified for being a member of Gram Panchayat, Shindewadi, Tal. Haveli, Dist. Pune under provisions of Section 14(1)(h) of the Maharashtra Village Panchayats Act, 1959 (**Village Panchayats Act**). The Divisional Commissioner has allowed the Appeal preferred by Respondent No.1 and has set aside Collector's order dated 2 January 2024 by which the Collector had rejected the application preferred by Respondent No.1 seeking disqualification of the Petitioner.

2) Petitioner contested the general elections for Shindewadi Grampanchayat and came to be elected as a Member thereof in the result declared on 18 January 2021. Respondent No.1 filed Dispute Application No. 225 of 2021 against the Petitioner seeking his disqualification under provisions of Section 14(1)(h) of the Village Panchayats Act on the ground that despite the tax bill for the period 2021-2022 being served on the Petitioner on 31 May 2021, he had failed to pay the taxes as per the bill till filing of the Dispute. Respondent No.1 further contended that in the Grampanchayat meeting held on 22 April 2021 and 22 June 2021, specific resolutions were adopted calling upon the members to deposit the tax amounts as per the bills and they were also made aware about possible disqualification on account of non-payment of taxes within stipulated period. It appears that the Petitioner paid taxes of Rs. 8,271/- demanded in the bill dated 31 May 2021 on 3 November 2021 only after Dispute Application was filed by Respondent No.1. The Collector however proceeded to dismiss the Dispute Application holding that though bill dated 31 May 2021 reflected acknowledgment of the Petitioner, the date on which the bill was acknowledged was not reflected. The Divisional Commissioner has reversed the order of the Collector by recording a finding of fact that the bill was in fact served on the Petitioner on 31 May 2021. The Divisional Commissioner has accordingly ordered disqualification of the Petitioner under provisions of Section 14(1)(h) of the Village Panchayats Act vide order dated 27 November 2024, which is subject matter of challenge in the present Petition.

3) I have heard Mr. Kulkarni, the learned counsel appearing for the Petitioner, Mr. Nikte, the learned counsel

appearing for Respondent No.1 and Ms. Nadkarni, the learned AGP appearing for Respondent Nos. 2 to 6.

4) After having considered the submissions canvassed by the learned counsel appearing for parties, it appears that two issues essentially arise in the present Petition viz. (i) whether or not the Bill dated 31 May 2021 was served on the Petitioner on 31 May 2021 and (ii) whether the bill dated 31 May 2021 was a valid levy for the purpose of attracting provisions of Section 14(1)(h) of the Village Panchayats Act for failure to deposit the demanded amount of tax within a period of three months.

5) So far as the first issue about service of the bill dated 31 May 2021 is concerned, the Dispute Application filed by Respondent No.1 contained following averments in paragraph 4 :

> ४. सदर जाबदेणार यांना त्यांचे ग्रामपंचायत मिळकत नं. ९, १० व ३१७ चे सन २०२१-२०२२ चे बिल दि. ३१/०७/२०२१ रोजी काढलेले असून सदर बिलं जाबदेणार यांना त्याच दिवशी दिलेले आहे व ते त्यांना मिळाले म्हणून त्यांनी सही देखिल केलेली आहे. असे असताना सदर कराचा भरणा आजपावेतो जाबदेणार यांनी केलेला नाही. तेव्हा सदर बिल मिळाल्यानंतर सदर करावा तीन महीन्याचे आत भरणा करण्यात जाबदेणार यांनी कसूर केलेली असल्याने जाबदेणार हे महाराष्ट्र ग्रामपंचायत अधिनियम चे कलम १४ (ह) प्रमाणे ग्रामपंचायत शिंदेवाडी ता. हवेली जि. पुर्णे च्या सदस्यपदी राहणेस अनर्ह उरत आहेत.

6) Petitioner filed reply to the Dispute Application but did not specifically raise a pleading that he did not receive the Bill on 31 May 2021 as alleged by Respondent No.1. Instead Petitioner chose to raise following vague pleadings in paragraph 6 of his reply, which read thus:

> ६. तसेच अर्जदार यांनी दाखल केलेले गाव मौजे शिंदेवाडी येथील ग्रा. पं. मिळकत क. ९, १० व ३१७ चे कर मागणी वील दि. ३१/०५/२०२१ रोजी वजावले असल्याचे दाखवले असुन त्यावर सदरहु कर रक्कम १५ दिवसात भरणे बाबतचा मजकुर दिसुन येत आहे

> गमपंचायतीचे आर्थिक वर्ष सन २०२१-२२ हे दि.०१/०४/२०२१ पासुन सुरू झालेले ते दि. ३१/०३/२०२२ पर्यंतचे आहे. अर्जदार यांनी नमुद कलेले बील हे दि. ३१/०५/२०२१ रोजीचे असुन सदरहु तारखेपर्यंत जावदेणार यांची कोणतीही थकवाकी नव्हती व नाही. तसेच ग्रा.पं. कलम १२९ (१) (२) (३) यांचे कोणतेही अवलोकन केलेले नसल्याचे स्पष्टपणे दिसुन येत आहे.

7) In the entire reply, there is no specific averment that the Bill was not received by the Petitioner on 31 May 2021. There is no dispute to the position that the counterfoil of the bill bears Petitioner's signature of having received the same. Though the date of making such acknowledgment is not reflected, Petitioner did not come out with a specific case that he received the said bill on a particular date. Thus, in his reply filed to the Dispute Application, Petitioner did not create any dispute about non-receipt of Bill on 31 May 2021. It was therefore entirely unnecessary for Collector to institute an enquiry as to whether the Bill was indeed received by the Petitioner on 31 May 2021 or not. The Collector completely misdirected himself in embarking upon enquiry about date of receipt of the bill merely on the basis of oral submissions, in absence of any specific pleading in the reply filed to the Dispute Application.

8) In the light of absence of a pleading by the Petitioner about non-receipt of the Bill on 31 May 2021, the averment raised by Respondent No.1 in paragraph 4 of the Dispute Application is impliedly admitted. However, even if this position is to be momentarily ignored, there are variety of factors on the basis of which service of bill on the Petitioner on 31 May 2021 can otherwise be inferred. The Divisional Commissioner has relied upon report of Block Development Officer, who has confirmed the position that the bill was served on Petitioner on 31 May 2021. Respondent No.1 is a Sarpanch of the Grampanchayat and in his position as a Sarpanch, he made specific averment about service of the bill on 31 May 2021

and this assertion was not denied by the Petitioner. Thirdly and more importantly within the time limit available for payment of the taxes under Section 14(1)(h) of the Village Panchayats Act, meeting of the Grampanchayat was conducted on 22 June 2021 in which the specific intimation was given to all the members, including the Petitioner that failure to pay taxes within the stipulated time would entail disqualification of the members. Petitioner still took a calculated chance and avoided payment of taxes demanded in the bill dated 31 May 2021. He never complained about non-receipt of the bill in the meeting held on 22 June 2021. In my view, therefore, there are multiple factors for inferring that Petitioner had in fact received the bill on 31 May 2021 itself.

9) Mr. Kulkarni would submit that the taxes are ultimately paid by the Petitioner and that therefore mere delay of few days in payment of the taxes cannot lead to unseating of democratically elected member. However, provisions of Section 14(1)(h) of the Act do not leave any discretion for the Collector to condone the delay and not to make an order of disqualification on a case-to-case basis. Once failure to pay tax to the Panchayat within a period of three months of demand is proved, the Collector is left with no other option but to pass an order of disqualification of that Member. In this regard provisions of Section 14(1)(h) are reproduced as under:

> **14.(1)(h)** fails to pay any tax or fee due to the panchayat (or the Zilla parishad within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him; or

10) In my view, therefore, payment of taxes by the Petitioner on 3 November 2021 cannot save the consequences of disqualification

under provisions of Section 14(1)(h) of the Act once service of the Bill on 31 May 2021 is not disputed in pleadings.

11) The next point sought to be urged by Mr. Kulkarni is about illegal levy made by Grampanchayat vide bill dated 31 May 2021. He would rely upon provisions of Rule 8 of the Maharashtra Village Panchayats Taxes and Fees Rules, 1960, which provides thus:

> **8. Tax effective from what date.-**
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> The tax shall be leviable for the year beginning on 1st April and ending on 31st March and shall not come into force except on the following dates, viz, 1st April, 1st July, 1st October or 1st January, in any year and if it comes into force on any day other than the 1st April it shall be leviable by the quarter till the 1st April next following.

12) According to Mr. Kulkarni it was unlawful for the Grampanchayat to raise a bill for entire year 2021-2022 on 31 May 2021 and as per Rule 8, the same ought to have been charged on a quarterly basis. I am unable to agree. Rule 8 applies only for the purpose of effective date for levy of Grampanchayat taxes. The same is irrelevant for the purpose of raising of bills. Rule 8 is relevant for the purpose making the first levy by the Grampanchayat and provides that the first levy must be made either on 1 April or 1 July or 1 October or 1 January. Rule 8 cannot be read to mean as if Grampanchayat is under obligation to raise four separate bills in every quarter of a year. Mr. Kulkarni has sought to rely upon judgment of single judge of this Court in ***Angha Ajit Bhatkar Vs. State of Maharashtra & Ors.***[1], in support of his contention that the tax bill must be levied on a quarterly basis. Mr. Nikte is quick enough to point out that the judgment in ***Angha Ajit Bhatkar*** (supra) is held to be not enunciating correct position of law in the

1 2006 (6) Mh.L.J. 13

Division Bench judgment in ***Ashok Tukaram Dohe Vs. Divisional Commissioner, Nagpur & Ors.***[2]***,*** in which it is held as under:

> **6.** On a reading of the judgment in the case of Angha Ajit Bhatkar v. State of Maharashtra as also the order of reference, we find that we are in agreement with the view expressed by the learned Single Judge in the order of reference, dated 24th September, 2009.
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> The provisions of Rule 8 of the Rules of 1960 read thus:-
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> "8. **Tax effective from what date**. - The tax shall be leviable for the year beginning on 1st April and ending on 31st March and shall not come into force except on the following dates, viz., 1st April, 1st July, 1st October or 1st January, in any year and if it comes into force on any day other than the 1st April it shall be leviable by the quarter till the 1st April next following."
>
> It is clear from a reading of the provisions of Rule 8 of the Rules that the tax shall be leviable for the year beginning on the 1st of April and ending on the 31st of March. This would clearly mean that a tax bill would pertain to a period of one year commencing from the 1st of April and ending on the 31st of March. A tax bill in respect of the property that is already assessed to tax cannot be split into four parts and it would not be necessary to issue four tax bills for the four quarters of a financial year, commencing from the 1st of April, 1st of July, 1st of October and 1st of January as expressed by the learned Single Judge in the case of Angha Ajit Bhatkar v. State of Maharashtra. In our considered view, Rule 8 does not provide for the issuance of four bills in respect of the tax payable for each of the quarters beginning from the 1st of April, 1st of July, 1st of October and the 1st of January of the relevant year if tax is leviable on such property on the 1st of April. It would not be necessary for a Gram Panchayat to issue four separate bills and demand the tax in four quarterly installments in such cases. The provisions of Rule 8 clearly specify that the tax would be leviable for the year beginning on the 1st of April and ending on the 31st of March and hence a solitary tax bill for the entire year could be issued to the person concerned. It is not possible for us to accept the view that even if a single bill is issued, the bill should be split into four parts, clearly specifying the amount of tax payable for each of the quarter and the due date for payment of the tax for the quarter. There is nothing in Rule 8 that requires the issuance of four separate bills or the splitting of the bills into four parts clearly specifying as to what tax is payable during each of the quarter. It is rightly observed by the learned Single Judge in the order of reference that if a house property is already assessed to tax in any of the previous financial years, the tax on such property would become due from the 1st of April and if a property is not assessed to tax or becomes liable for payment of tax during the financial year (l.e. the property is not already liable to be taxed before the 31st March), then the tax on such property would not be leviable from the date of completion of the construction of the property, or the date of

2 (2016) 5 Mh.L.J. 691

> assessment, or the date from which the property was included in the Gram Panchayat limits but from the 1st date of the quarter commencing next, after such assessment or liability. Only when a property is assessed to tax after the 31st of March, the tax would be leviable on the said property from the first date of the quarter commencing next, after such assessment or liability. It is rightly submitted that if the house property is assessed to tax for the first time on the 20th of September, then the tax would be leviable on the said property, from the beginning of the quarter commencing from the 1st of October and not from the 20th of September and in such a case, the tax would be leviable by the quarters till the 1st of April of the next financial year. We find that the view expressed by the learned Single Judge in the order of reference appears to be the correct position of law.
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> Upon the discussion, we now proceed to answer the questions formulated in the order of reference-
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> Re: 1. The view expressed by the learned Single Judge in the decision in the case of Angha Ajit Bhatkar, reported in 2006 (6) Mh.L.J. 13 is not the correct position of law.
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> Re: 2. In terms of Rule 8 of the Maharashtra Village Panchayats Taxes and Fees Rules, 1960, the Gram Panchayats are not required to demand and collect taxes on properties, in four quarterly installments, beginning from the 1st of April, 1st of July, 1st of October and 1st of January if tax is leviable on such properties on the 1st of April of the relevant year.
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> Re: 3. In terms of Rule 8, the Gram Panchayats would be required to demand and collect tax in quarterly installments only if the tax is not leviable at the beginning of the financial year and becomes leviable after the 1st of April.

13) I am therefore unable to hold that the levy made by the Grampanchayat vide bill dated 31 May 2021 suffered from any illegality. The levy was valid and failure on the part of the Petitioner to pay the taxes within a period of three months from the date of service of the bill automatically rendered himself liable for disqualification under provisions of Section 14(1)(h) of the Act.

14) The last submissions sought to be canvassed by Mr. Kulkarni is about the Divisional Commissioner deciding the proceedings against him *ex-parte* without service of notice. As a matter of fact, the order dated 27 November 2024 clearly records

that notice of the proceedings was dispatched to the Petitioner and that he failed to appear before the Divisional Commissioner. Ms. Nadkarni has placed on record copy of the notice dated 22 July 2024 dispatched to Petitioner and Respondent No.1 which bears signatures of both the parties for having acknowledged the notices. I am therefore not inclined to accept the contention of the Petitioner that he did not receive notice of the proceeding before the Divisional Commissioner. In fact the conduct of Petitioner in making a causal and false averment in not receiving notice of proceedings before the Divisional Commissioner is not appreciated by this Court.

15) Considering overall conspectus of the case, I do not find any error in the order dated 27 November 2024 passed by the Divisional Commissioner. In the present case disqualification of the Petitioner has been ordered after due and strict adherence to the provisions of Section 14(1)(h) of the Village Panchayats Act. Order dated 27 November 2024 passed by the Additional Divisional Commissioner is unexceptionable. Writ Petition is devoid of merits, it is accordingly **dismissed** without any order as to costs.

16) After the order is pronounced Mr. Kulkarni would pray for stay of the order for a period of six weeks. However, it is observed that the order of the Divisional Commissioner passed on 27 November 2024 has not been stayed during pendency of the present Petition and in that view of the matter, request for continuation of stay is accordingly rejected.

[SANDEEP V. MARNE, J.]