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

WRIT PETITION NO. 4966 OF 2025

Ranjit Raghunath Bhuyal

Age: 33 years, Occ: Agriculturist

Add: Village :AmbisteBudruk,

Taluka-Wada, District – Palghar

... Petitioner

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V/s.

1. The Learned Collector, Palghar

At: Palghar, Tal and Dist: Palghar Through
State of Maharashtra Represented in this
Hon'ble Court Through Learned Assistant
Govt Pleader having office at: PWD Building,
Bombay High Court Premises, Fort, Mumbai-
400 001

2. Mayuresh Ulhas Sawant

Age: 30 Years, Occ: Agriculturist

Add: Village: AmbisteBudruk,

Taluka-Wada, District - Palghar

3. Gram Sevak, Gram Panchayat

AmbisteBudruk

Add: Village: AmbisteBudruk, Taluka-Wada,

District-Palghar

... Respondents

Mr. Sandesh D. Patil with Samir Patil and Krishnakant
Deshmukh i/by Mr. Prithviraj S. Gole for the petitioner.

Mr. Sanjay Patil for respondent No.2.

Ms. Aloka A. Nadkarni, AGP for State for respondent
Nos.1 and 3.

CORAM : AMIT BORKAR, J.

DATED : APRIL 21, 2025

ORAL JUDGMENT:

1. Rule. Rule is made returnable forthwith.
2. The present writ petition challenges the legality and correctness of the order dated 28th March 2025, passed by the Collector, Palghar. This order was passed in proceedings initiated under Section 7 of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as “the 1959 Act”). By the said order, the Collector allowed the application filed by respondent No.2 and held that the petitioner – who was elected as the Sarpanch of village Ambiste Budruk, situated in Taluka Wada, District Palghar – stood disqualified from continuing as Sarpanch. The disqualification was on the ground that the petitioner had failed to convene any meeting of the Gram Panchayat for a continuous period of 90 days during the financial year 2024–2025, which was in breach of the statutory duties cast upon him under the 1959 Act.
3. The factual backdrop of the case is largely undisputed and may be briefly set out as under: The Gram Panchayat of village Ambiste Budruk falls within a Scheduled Area as notified by the Presidential Notification dated 2nd December 1986, issued under Article 244(1) read with the Fifth Schedule to the Constitution of India. It is not in dispute that the petitioner belongs to the Varli community, which is notified as a Scheduled Tribe under the

Constitution (Scheduled Tribes) Order. Therefore, the governance of the said Gram Panchayat and the conduct of its office-bearers, including the petitioner, is subject to the special provisions that apply to Scheduled Areas under the constitutional and statutory framework.

4. Elections to the Ambiste Budruk Gram Panchayat were conducted on 18th October 2022, and the petitioner was elected as the Sarpanch of the said Gram Panchayat. On 20th January 2025, respondent No.2 moved an application before the Collector under Section 7(1) of the 1959 Act. In the said application, it was alleged that the petitioner had failed to convene the mandatory Gram Sabha within two months from the commencement of the financial year, and further, had not held any Gram Panchayat meetings for a continuous period of 90 days. Based on these allegations, a prayer was made to declare the petitioner disqualified under the provisions of Sections 7 and 8 of the 1959 Act.

5. Upon service of notice, the petitioner appeared before the Collector and filed a reply opposing the said application. The petitioner denied the allegations and sought dismissal of the application. However, upon hearing both parties and considering the material on record, the Collector, by the impugned order dated 28th March 2025, proceeded to allow the application filed by respondent No.2. The Collector held that the petitioner had in fact failed to conduct any meeting for a continuous period of 90 days during the relevant financial year and accordingly declared the petitioner disqualified to continue as Sarpanch in terms of the statutory provisions.

6. Learned Advocate for the petitioner has strongly contended that the impugned order passed by the Collector suffers from a fundamental jurisdictional error and is vitiated by non-application of mind to the special constitutional and statutory safeguards granted to Scheduled Areas. It is submitted that the Collector proceeded to adjudicate the issue of disqualification without giving due weight to the unique framework under which local self-governance is to function in Scheduled Areas. According to the learned counsel, the order passed is mechanical and fails to engage with the deeper constitutional mandate enshrined for Scheduled Tribes and Scheduled Areas.

7. In support of this submission, reliance has been placed on Chapter III-A of the Maharashtra Village Panchayats Act, 1959, which was inserted by Maharashtra Act No. 27 of 2003. The said Chapter was brought into force specifically to give effect to the provisions of Part IX of the Constitution, as adapted for Scheduled Areas through the Fifth Schedule and in consonance with the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (popularly known as the PESA Act). Chapter III-A introduces special provisions to regulate the functioning of Gram Sabhas and Panchayats in Scheduled Areas, recognizing their distinctive socio-political and cultural identity.

8. Section 54-1A of the 1959 Act, which is the core of Chapter III-A, is of particular relevance. It reads as under:

“Section 54-1A. Special Provisions relating to village and Gram Sabha – Notwithstanding anything contained in Sections 4, 5 or any other provisions of this Act, in the

Scheduled Areas,—

(a) a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs, and which is declared as a village in the prescribed manner shall be the village for the purposes of this Chapter;

(b) every village, so declared under clause (a), shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the panchayat at the village level and a panchayat may comprise of one or more than one of such villages.”

9. The expression “notwithstanding anything contained” as used in Section 54-1A is of crucial importance. It is a non-obstante clause, and its legislative effect is that the special provisions contained in Chapter III-A will override anything inconsistent in other parts of the 1959 Act, including Sections 4 and 5. This clearly shows that the legislature intended to carve out a distinct and preferential legal regime for Scheduled Areas, rooted in community self-governance and respect for local traditions and customs. It recognizes that governance in such areas must be conducted in a participatory and decentralized manner, with primacy given to Gram Sabhas and their collective decision-making processes.

10. Therefore, while applying provisions such as Sections 7 and 8 of the Act, which deal with disqualifications, the authorities are under a constitutional and statutory obligation to interpret them in the light of the framework laid down in Chapter III-A. The assessment of whether there has been a failure to convene meetings should not be undertaken in a purely mechanical or

arithmetical fashion, but must be informed by the ground realities of how decision-making takes place in Scheduled Areas. Functional limitations, customary processes, and the role of Gram Sabhas must be duly considered before arriving at any conclusion that affects the tenure of an elected representative.

11. In the present case, the petitioner is a member of a Scheduled Tribe and was elected from a Scheduled Area. As such, he is entitled to the benefit of the special protection and recognition extended under the Constitution and the 1959 Act, as amended. A rigid and uniform application of the general norms of disqualification, without acknowledging the contextual framework and functional autonomy of Scheduled Areas, would defeat the very purpose of enacting such special provisions. Unfortunately, the Collector failed to take into account this broader constitutional and statutory perspective, and passed the order without addressing the mandate of Chapter III-A. Such an approach, in my considered opinion, cannot be sustained in law.

12. The central issue in this case revolves around the proper interpretation of Section 54C of the 1959 Act, as against Section 7, and determining which of the two governs situations arising in Scheduled Areas. Section 54C is part of Chapter III-A, which was specifically inserted by Maharashtra Act No. 27 of 2003 to implement the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) and to cater to the special conditions and requirements of governance in Scheduled Areas. On the other hand, Section 7 is a general provision forming part of Chapter II of the Act and deals with disqualifications applicable to

all Gram Panchayats without distinction.

13. Section 54C lays down the procedure, frequency, and responsibility for holding meetings of the Gram Sabha in Scheduled Areas. In contrast, Section 7 speaks of disqualifications applicable to members of Panchayats, including Sarpanchas, on general grounds. Notably, while enacting Chapter III-A, which was introduced much later, the legislature was fully aware of the existence of Section 7 but consciously chose not to prescribe disqualification as a consequence for failure to hold Gram Sabha meetings under Section 54C. This deliberate omission must be respected, and cannot be presumed to be accidental or overlooked.

14. The well-settled principle of interpretation — *generalia specialibus non derogant* — meaning special provisions override general ones, applies squarely to the facts of the present case. Section 7, being a general provision relating to disqualification, must give way to the special procedure laid down in Section 54C for Scheduled Areas. The very object of Chapter III-A is to provide flexible, community-based, and culturally sensitive governance in Scheduled Areas. Therefore, importing general disqualification clauses into this special framework would defeat the very object of the amendment.

15. The "mischief rule" of interpretation, originally laid down in Heydon's Case, and adopted consistently by the Hon'ble Supreme Court, also supports this view. The mischief which Chapter III-A sought to cure was the historical non-recognition of customary self-governance systems and underrepresentation of tribal

communities in statutory governance structures. Hence, the provisions introduced under Chapter III-A, including Section 54C, must be interpreted purposively, in a way that advances tribal autonomy and inclusion, rather than restricts it.

16. Learned Advocate for respondent No.2 has argued that the non-obstante clause in Section 54-1A applies only to that specific section and not to the whole of Chapter III-A, including Section 54C. I am not inclined to accept this interpretation. In support of his contention, reliance was placed on the decision of this Court in *Pralhad Bhikaji Bargaje vs. The State of Maharashtra*, reported in 2016 (6) ALL MR 721. However, it is important to note that the facts in that case did not relate to a Gram Panchayat situated in a Scheduled Area, nor did the Court consider the effect of Chapter III-A. Therefore, the ratio in the said case is clearly distinguishable and inapplicable to the present context.

17. A non-obstante clause is a legislative tool used to give overriding effect to the provision in which it appears. Section 54-1A begins with the words:

“Notwithstanding anything contained in Sections 4, 5 or any other provisions of this Act, in the Scheduled Areas...”

18. The expression “or any other provisions of this Act” is of wide import, and by design, is intended to override all inconsistent provisions, including general provisions like Section 7, when applied to Scheduled Areas.

19. This clause must be given its full and meaningful effect. It is not limited only to Section 54-1A but applies to the entire Chapter

III-A, which functions as a self-contained and exclusive code governing Panchayats in Scheduled Areas. To accept the contrary view would be to reduce Chapter III-A to a dead letter and render the constitutional promise under the Fifth Schedule and PESA ineffective.

20. If the argument of respondent No.2 is accepted, the purpose and intent behind Chapter III-A would be rendered nugatory. It would also frustrate the constitutional mandate of empowering Scheduled Tribes to self-govern through traditional practices, customs, and localized institutions. This would be contrary to the spirit of PESA and Article 244 of the Constitution.

21. This interpretation finds support in a Co-ordinate Bench decision of this Court in Writ Petition No. 1222 of 2012 – Madhuri Kashinath Anjekar vs. Additional Commissioner, Amravati Division, wherein the Court held that Section 54D, also part of Chapter III-A dealing with no-confidence motions, would prevail over general provisions. The Court emphasized the need to apply the special procedure in Scheduled Areas and not to mix it with the general law applicable elsewhere.

22. Applying the same principle here, since Section 54C lays down the procedure for convening Gram Sabha meetings and does not prescribe any disqualification for failure to hold such meetings, it must be presumed that the legislature intentionally excluded such consequence. Therefore, applying Section 7 in this context was without jurisdiction.

23. In light of the special statutory scheme under Chapter III-A and the constitutional protections extended to Scheduled Tribes, the action of the Collector in invoking Section 7 to disqualify the petitioner — an elected Sarpanch of a Gram Panchayat situated in a Scheduled Area — is legally unsustainable.

24. On a holistic reading of the Act, and considering the object of Chapter III-A along with the overriding effect of Section 54-1A, I am of the considered view that the Collector's decision suffers from a clear jurisdictional error. Any failure to convene the Gram Sabha, if established, is to be addressed only within the procedure contemplated under Section 54C, and not through the penal consequences under Section 7 of the general law.

25. Accordingly, the impugned order dated 28th March 2025 passed by the Collector, Palghar, is quashed and set aside. The petitioner shall be restored forthwith to the office of Sarpanch of Ambiste Budruk Gram Panchayat.

26. Rule is made absolute in terms of prayer clause (a).

27. The writ petition stands disposed of in above terms. No order as to costs.

28. Pending interlocutory application(s), if any, stands disposed of.

(AMIT BORKAR, J.)