

Shabnoor

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

WRIT PETITION NO. 5204 OF 2025

Satyawan Ananta Padwale

... Petitioner

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V/s.

1. State of Maharashtra

Through its Secretary, Rural
Development Department,
Mantralaya, Mumbai – 400 032.

2. Collector, Palghar,

Having its office at Palghar,
Dist. Palghar

3. Pratik Prabhakar Patil

Aged adult, resident of Bilawali
Village, Tal. Wadas, Dist. Palghar

... Respondents

Mr. Chintamani K. Bhangoji a/w Ms. Lata Bhangoji for
petitioner.

Ms. Aloka A. Nadkarni, AGP for State for respondent
Nos.1 and 2.

Mr. Sandesh D. Patil a/w Prithviraj S. Gole and Mr.
Yogesh D. Keny for respondent Nos.3.

CORAM : AMIT BORKAR, J.

DATED : APRIL 21, 2025

ORAL JUDGMENT.:

1. Rule. Rule is made returnable forthwith.
2. Challenge in the present petition is to the legality and validity of the order dated 27 March 2025 passed by the Collector, Palghar in a proceeding 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.3 and declared the petitioner – who was elected as Sarpanch of the Bilawali Gram Panchayat – disqualified to continue as Sarpanch on the ground of failure to conduct any meeting for a continuous period of 90 days during the financial year 2024–2025.
3. The factual background of the case is not much in dispute and can be briefly stated thus: the Gram Panchayat of village Bilawali, situated in Taluka Wada, District Palghar, is notified as a Scheduled Area under 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 disputed that the petitioner belongs to the Varli tribe, which is recognized as a Scheduled Tribe under the Constitution (Scheduled Tribes) Order.
4. The election to the Bilawali Gram Panchayat was conducted on 17th October 2022, in which the petitioner came to be elected as Sarpanch. On 5th July 2024, respondent No.3 filed an application under Section 7(1) of the 1959 Act before the Collector, alleging that the petitioner had failed to convene the Gram Sabha within a period of two months from the beginning of

the financial year and had not held any meeting for a continuous period of 90 days. The application sought a declaration that the petitioner stood disqualified under Sections 7 and 8 of the Act.

5. Upon issuance of notice, the petitioner contested the proceedings and filed his reply before the Collector. However, by the impugned order dated 27th March 2025, the Collector allowed the said application and declared the petitioner disqualified under the aforesaid provisions.

6. Learned Advocate for the petitioner has strenuously urged that the impugned order passed by the Collector suffers from jurisdictional infirmity as well as non-application of mind to the special constitutional and statutory protections granted to Scheduled Areas and their governance through local self-government institutions.

7. In this regard, reliance is placed on the provisions of Chapter III-A of the 1959 Act, which was inserted by Maharashtra Act No. 27 of 2003, to give effect to the provisions of Part IX of the Constitution as modified by the Fifth Schedule, read with PESA (Panchayats Extension to Scheduled Areas) Act, 1996. The said Chapter contains special provisions for the functioning of Gram Sabhas and Panchayats in Scheduled Areas.

8. Section 54-1A of the 1959 Act is particularly relevant and reads thus:

“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 use of the non-obstante clause in Section 54-1A is significant. It gives an overriding effect to the special provisions in Chapter III-A over any inconsistent provisions in the rest of the Act. The object and purpose of enacting such special provisions is to recognize and respect the distinct socio-cultural and administrative framework prevailing in Scheduled Areas. It mandates governance by traditions and customs of the community and decentralized democratic decision-making through empowered Gram Sabhas.

10. Therefore, while interpreting provisions such as Sections 7 and 8 of the Act, due regard must be given to the contextual framework of Scheduled Areas. The disqualification for not convening meetings must be assessed not only on the touchstone of statutory defaults but also with reference to the functional realities and community-based participatory governance envisaged under Chapter III-A.

11. The petitioner being a member of the Scheduled Tribe elected from a Scheduled Area deserves protection against rigid application of general disqualification norms, especially when the statute itself envisages a customized governance structure in such areas. The Collector has failed to appreciate this constitutional and statutory mandate.

12. At the heart of the controversy lies the interpretation of Section 54C vis-à-vis Section 7 of the 1959 Act, and their relative applicability to Scheduled Areas. Section 54C falls within Chapter III-A of the Act, which has been inserted by Maharashtra Act No. 27 of 2003, with a specific object of introducing special provisions applicable to Panchayats and Gram Sabhas in Scheduled Areas, in conformity with the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA).

13. Section 54C provides for the procedure and frequency for convening meetings of the Gram Sabha. On the other hand, Section 7, which is part of Chapter II of the 1959 Act, lays down general grounds for disqualification of members of Gram Panchayats, including Sarpanch, and applies generally to all Panchayats constituted under the Act. It is important to note that Chapter III-A was enacted with full awareness of the existing framework, including Section 7, and yet, the legislature consciously omitted any provision for disqualification on the ground of failure to convene Gram Sabha meetings in Section 54C. Such omission cannot be treated as accidental or inadvertent.

14. The principle of *generalia specialibus non derogant* — that special provisions prevail over general ones — is squarely attracted in the present context. Section 7, being a general provision relating to disqualification, must yield to the special procedure prescribed in Section 54C for Gram Sabhas situated in Scheduled Areas. The legislative intent behind inserting Chapter III-A is clearly to recognize the unique socio-political realities of Scheduled Areas and to allow for greater autonomy and community-led decision-making, without subjecting these areas to the rigid application of the general disqualification regime under Chapter II.

15. The mischief rule of interpretation, as laid down by the Supreme Court in *Heydon's Case*, also supports this interpretation. The mischief sought to be remedied by Chapter III-A was the inadequate representation and participation of Scheduled Tribe communities in local self-governance. Therefore, the insertion of Chapter III-A must be given purposive interpretation, and its provisions must be given full effect.

16. The learned advocate appearing for respondent No.3 sought to argue that the non-obstante clause contained in Section 54-1A applies only to that specific provision, and not to the subsequent provisions including Section 54C. I find it difficult to accept this argument.

17. A non-obstante clause is a legislative device meant to give overriding effect to the provision in which it is found. The wording of Section 54-1A opens with:

“Notwithstanding anything contained in Sections 4, 5 or any

other provisions of this Act, in the Scheduled Areas...”.

18. The words “or any other provisions of this Act” are of wide amplitude, and by legislative design, intend to override all inconsistent provisions of the 1959 Act insofar as Scheduled Areas are concerned. The clause is not confined merely to the contents of Section 54-1A, but extends to the entire Chapter III-A, which forms a complete and self-contained code for Panchayati Raj governance in Scheduled Areas.

19. Accepting the argument advanced by respondent No.3 would render the object and scheme of Chapter III-A nugatory and defeat the constitutional mandate under the Fifth Schedule and PESA, which require decentralized self-governance through Gram Sabhas with due regard to customs and traditions of tribal communities.

20. Support for this interpretation is also found in a Co-ordinate Bench decision of this Court in *Writ Petition No. 1222 of 2012 – Madhuri Kashinath Anjekar v. Additional Commissioner, Amravati Division*, wherein the Court considered Section 54D — also part of Chapter III-A — dealing with motions of no confidence in Scheduled Areas. The Court held that the special procedure laid down in Section 54D must prevail, and general provisions relating to Panchayats would not apply in such cases.

21. Applying the same logic to the present case, once Section 54C prescribes the procedure for Gram Sabha meetings, and omits any penal consequence such as disqualification, it must be presumed that the legislature did not intend to attract Section 7 in such contexts. Therefore, the Collector committed a jurisdictional

error by invoking Section 7 of the 1959 Act to disqualify the petitioner, who is the elected Sarpanch of a Panchayat falling in a notified Scheduled Area.

22. In view of the specific and special legislative framework applicable to Scheduled Areas, and the constitutional protections accorded to Scheduled Tribes, the impugned order passed under the general provision of Section 7 is not sustainable in law.

23. In light of the above discussion, I am of the considered opinion that the Collector erred in invoking Section 7 in the facts of the present case without appreciating the applicability of Chapter III-A and the overriding effect of the non-obstante clause in Section 54-1A. The failure to convene meetings of the Gram Sabha, if any, is governed solely by the procedure and framework of Section 54C, which does not prescribe disqualification as a consequence.

24. Accordingly, the impugned order dated 27 March 2025 is quashed and set aside. The petitioner shall be restored to the position of Sarpanch of Bilawali Gram Panchayat forthwith.

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

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

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

(AMIT BORKAR, J.)