



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO.6368/2024

Meenatai w/o Dadarao Uike,
Aged: 47 years, Occu : Household,
R/o. Mundgaon, Taluka- Akot,
Dist. Akola

... PETITIONER

...VERSUS...

1. The Collector, Akola, Dist. Akola
2. Secretary, Gram Panchayat,
Mundgaon, Taluka, Akot, Akola
3. Tushar s/o Ramesh Pachkor (Dy. Sarpanch),
Aged: 38 years, Occu: Agriculture
R/o. Mundgaon, Taluka- Akot,
Dist. Akola

...RESPONDENTS

Shri M.V. Rai, Advocate for petitioner
Shri A.M. Tirukh, Advocate for respondent No.2
Shri R.D. Karode, Advocate for respondent No.3

CORAM : SMT. M. S. JAWALKAR, J.

DATED : 09/04/2025

JUDGMENT

. Heard learned Counsel for petitioner and learned

Counsel for respondents.

2. Being aggrieved by the impugned order dated 03.10.2024 passed by the learned Respondent No. 1 i.e. Collector, Akola, Dist. Akola thereby the petitioner was disqualified from the post of Sarpanch of village- Mundgaon, Taluka-Akot, Dist. Akola and further it has been specifically directed that, the petitioner shall be disqualified for remaining tenure of Grampanchayat for the said post as per section 7(1) of The Maharashtra Grampanchayat Act, 1959 (hereinafter referred as MG Act, 1959) upon the alleged complaint made by the respondent No. 3.

3. Petitioner is the Member of Scheduled Tribe and is residing at village Mundgaon along with her family members. The Post for Sarpanch of village - Mundgaon was reserved for S.T. category and the general election of Grampanchayat was held in the year 2022-2023 and the candidate for the post of Sarpanch was to be directly elected from the village Mundgaon. The petitioner being eligible candidate had contested the election for the post of Sarpanch and accordingly she was directly elected from the public for the post of Sarpanch on 20.12.2022. The petitioner resumed the

office of Sarpanch on 04.01.2023. The respondent NO. 3 was elected as Dy. Sarpanch (Upa-Sarpanch) from the members of the Grampanchayat on 04.01.2023. The said Grampanchayat is consisting of 15 members.

4. The respondent No. 3 who is the Dy-Sarpanch filed an application u/s 07 (1) of MG Act before the respondent No. 1 alleging that, after resuming on the post of Sarpanch the petitioner did not hold the Gram Sabha Meeting on 26.01.2023 and thus, the said meeting was mandatory as per section 7 (1) of MG Act r/w 3 (2) of Gram Sabha Meeting Rules and thus, the petitioner is entitled for disqualification.

5. The respondent No. 1 issued the notice to the petitioner and the respondent No. 2 to produce the report and directed to file the reply. The counsel of the petitioner could not remain present for argument and the petitioner herself made the submissions. The learned Respondent No. 1 after hearing both the parties allowed the application of the respondent No. 5 and passed the order disqualifying the petitioner from the post of Sarpanch for

not holding the Gram Sabha Meeting on 26.01.2023 in view of the rule 7 (1) of M.G. Act r/w clause (2) of rule 3. Being aggrieved by the impugned order passed by the respondent No. 1 without considering the mandate of rule 7 (1) of MG Act and rules of Gram Sabha meeting, the petitioner is preferring the present writ petition.

6. Learned counsel for the Petitioner contended that the learned Respondent No. 1 relied upon the information given by the respondent No. 2 under RTI Act that, he had given the oral intimation to the petitioner so as to take Gram Sabha meeting on 26.01.2024 having specific Agenda. Perusal of the said document it shows that, oral instructions / intimation was given by the respondent No. 2 and it does not show that, on which day, date and time the said intimation was given to the petitioner. Thus, it is very clear that, when a specific date is not given by the respondent No. 2 and only oral instructions were given then the said information cannot be believed to be true and it shows a different version that, the said information does not have any authenticity as evidence. Thus, it is sufficient to discard the whole report of the respondent No. 2 and on this count alone the impugned order which is passed

upon the report on the respondent No. 2 needs interference by this court and it also needs to be set aside.

7. Learned Counsel for petitioner relied on ***Manisha Ravindra Panpatil Vs. The State of Maharashtra and ors. In Civil Appeal No.10913 of 2024 arising out of SLP (C) No.15073/2024.***

8. The submission of learned AGP is that, as per the Sub-Rule (2) of Rule 3 of the Maharashtra Village Panchayats (Gram Sabha) Rules, 1959, subject to the provisions of Section 7 of the M.V.P. Act, 1959, a Gram Sabha should have been held on 26th day of January as provided by Sub-rule (3) of the said Rule. According to the Rules and Act, the 'Sarpanch' and in his absence 'Upa-Sarpanch' shall be fixed for holding of requisite Gram Sabha and its fixation and holding. It is further submitted that, having regards to the provision U/s 7(1) of the Maharashtra Village Panchayats Act, 1959 and Rule 3(2) of the Maharashtra Village Panchayats (Gram Sabha) Rules, 1959, the answering respondent come to the conclusion that, Smt. Meenatai Dadarao Uike R/o Mundgaon, Tq. Akot, Dist. Akola, is liable to be held disqualified for continuing as a

'Sarpanch' or for being chosen as a 'Sarpanch' for the remainder period of the term of Office of members. Therefore, the application dated 12.07.2023 was allowed vide order dated 03.10.2024 and Smt. Meenatai Dadarao Uike R/o Mundgaon, Tq. Akot, Dist. Akola is held disqualified accordingly. Therefore, the instant petition being devoid of merits and deserves to be dismissed.

9. Learned counsel for the respondent no. 3 contended that the provisions of Section 7 of M.V. P Act and the Rules, 1959 are mandatory in nature. Present petitioner did not show competency to work as a Sarpanch which is crystal clear from the submissions of the petitioner that, for the first time she is elected as a Sarpanch and she has no knowledge of law and she is unaware of the provisions of Act and Rules. This cannot be excused to avoid the disqualification. It is further contended that the respondent no.1-Collector, Akola has followed the procedure as contemplated under the Act and Rules and also by following principles of natural justice has passed the very reasoned order. In the present matter the Collector called the report from the Secretary of Gram Panchayat and after perusal of records and after hearing to the rival parties

has passed the order of disqualification. Therefore the order dated 03.10.2024 cannot be faulted on any ground and needs no interference.

10. Learned Counsel for respondent No.3 relied on following citations:

- 1) ***Salimbi Mubarak Tamboli Vs. State of Maharashtra through Secretary and others*** reported in ***2019 (3) Bom.C.R. 572.***
- 2) ***Pralhad Bhikaji Bargaje Vs. the State of Maharashtra and ors.*** reported in ***2016(6) ALL MR 721.***

11. Heard learned Counsel for the respective parties, perused documents, impugned order and considered citations relied on. It appears that the petitioner resumed office of Sarpanch on 04.01.2023. Respondent No.3 elected as Deputy Sarpanch from the members of Gram Panchayat on 04.01.2024. Respondent No.3 filed application under Section 7 (1) of MG Act alleging that after resuming on the post of Sarpanch, the petitioner did not hold the Gram Sabha Meeting on 26.01.2023, which was mandatory as per Section 7 (1) of MG Act read with Section 3(2) of Gram Sabha

Meetings Rules, therefore liable to be disqualified. For the sake of convenience Section 7 (1) of Maharashtra Village Panchayat Act is reproduced below:

“Meetings of Gram Sabha

(1) There shall be held at least [four meetings] of the Gram Sabha [every financial year] on such date, at such [time and place and in such manner], as may be prescribed [and if the Sarpanch, or in his absence the Upa-Sarpanch fails without sufficient cause, to [hold [any of such four meetings]], he shall be disqualified for continuing as Sarpanch or, as the case may be, Upa-Sarpanch or for being chosen as such for the remainder of the term of office of the members [of the panchayat; and the Secretary of the panchayat shall also if, prima facie, found responsible of any lapse in convening such meeting, be liable to be suspended, and for being proceeded against, for such other disciplinary action as provided under the relevant rules.] The decision of the Collector on the question whether or not there was such sufficient cause shall be final]:

[Provided that, the Sarpanch may, at any time of his own motion, and, shall, on requisition of the Standing Committee, Panchayat Samiti, or Chief Executive Officer, call a meeting of the Gram Sabha within the period specified in the requisition; and, on failure to do so, the Chief Executive Officer shall require the Block Development Officer to call the meeting within fifteen days from the date he is so required to do. The meeting shall, notwithstanding

the provisions of sub-section (3), be presided over by him or any officer authorised by the Block Development Officer, in that behalf.]

[Provided further that, a period of not more than [four months] shall be allowed to elapse between the two meetings of the Gram Sabha:

Provided also that, if the Sarpanch or Upa-Sarpanch, as the case may be, fails to call any such meeting within the specified period, the Secretary shall call the meeting and it shall be presumed that such meeting has been called with the concurrence of the Sarpanch or, as the case may be, Upa-Sarpanch.]”

As such, Section 7 provides 4 meetings of Gram Sabha in every financial year is mandatory and failure to hold such 4 meetings, he shall be disqualified continuing as Sarpanch.

12. Rule 3 (2) of the Bombay Village Panchayat (Gram Sabha Meetings) Rules, 1959 is as under:

“Rule 3 (2) *Subject to the provisions of Section 7, a Gram Sabha shall ordinarily hold two more meetings, the first being held in the month of August and the other on the 26th day of January, as provided by sub-rule (3).*

(3) The Sarpanch and in his absence the Upa-Sarpanch shall fix the date, if any, and time of the

meeting of the Gram Sabha to ensure that the members of the Gram Sabha are not busy in any agricultural operation on the date and time fixed, and are free to attend the meeting.”

13. Those 2 additional meetings are to be held in the month of August and every on the 26th day of January, as provided by sub-rule 3. However it further qualifies that on the day of meeting which is also ascertained whether members of Gram Sabha are not busy in any agriculture operation. As such, it cannot be said to be mandatory to hold the meetings on 26th January.

14. Moreover, from the facts, it is clear that petitioner resumed office on 04.01.2023. She is woman candidate and also a member of Schedule Tribe. Therefore, it was incumbent on the Secretary as well as Up-Sarpanch to guide her on these aspects. If the information given to Up-Sarpanch by the Secretary under the Right to Information Act (page 32 Annexure –C), if perused, it is informed to the Up-Sarpanch that the Secretary orally gave information to the Sarpanch Meena Uikey. She has not conducted a meeting on 26.01. 2023. Whereas communication to the Sarpanch

(page 33) appears to be written by Secretary to inform the subjects for the meeting dated 26.01.2023. As such, it appears that while passing the impugned order, these aspects are not considered.

15. The learned Counsel for petitioner relied on the judgment in ***Manisha Ravindra Panpatil (supra)***, wherein it is held as under:

“5. This seems to us a classic case where the residents of the village could not reconcile with the fact that the appellant, being a woman, was nevertheless elected to the office of the Sarpanch of their village. They were perhaps further unable to come to terms with the reality that a female Sarpanch would make decisions on their behalf de jure and that they would have to abide by her directions.

6. It is patently obvious that these were the primary motivations which led the private respondents to initiate their orchestrated efforts towards the removal of the appellant, from her duly elected position. Having found no instance of professional misconduct on the part of the appellant that they could etch away at, the private mission to cast on a respondents instead embarked aspersions upon the appellant, by any means necessary. This initiative was undertaken by them, with the intention of securing her removal from public office.

7. *Though the private respondents grasped at straws in their bid to evict the appellant from her position, their cause was perhaps aided by the mechanical and summary at various orders passed by government authorities, levels. These orders were passed in a lackadaisical manner, without making any effort towards conducting a fact-finding exercise, so as to confirm whether the allegations levied by the private respondents were sufficiently made out. There is nothing on record to suggest that any objection of the appellant's family having encroached upon government land was ever raised when she filed her nomination papers.*

8. *At this juncture, we would like to note that the vagaries of the present factual matrix is far from unique and is unfortunately somewhat of a norm. While there is no doubt in our mind that the private respondents may have operated in a discriminatory manner, what is more worrying is the casual approach adopted by government authorities in summarily removing an elected representative. This is all the more concerning when the representative in question is a woman and elected in the reservation quota, thereby indicating a systemic pattern of prejudicial treatment, permeating through all levels of administrative functioning.*

9. *This scenario gets further exacerbated when we as a country are attempting realize the progressive goal of gender parity and women empowerment across all spheres, including public offices and most importantly adequate women representative in the elected bodies, such instances at*

the grass-root level cast a heavy shadow on any headway that we may have achieved.”

16. Learned Counsel for respondent No.3 relied on ***Pralhad Bhikaji Bargaje (supra)***, however, facts involved in the said matter are distinguishable. There was only one Gram Sabha was held though other Gram Sabha were adjourned and they were not held subsequently. Section 7(1) of Maharashtra Village Panchayat provides that at least 4 Gram Sabha meetings are required to be conducted within one year failure to which entails into disqualification. However Rule 3(2) provides additional two meetings to be conducted. As such, it is not mandatory so as to attract disqualification.

17. Learned Counsel for respondent No.3 also relied on ***Salimbi Mubarak Tamboli (supra)***, however this judgment is in respect on monthly meeting to be held of Gram Panchayat. However, it is not relevant in the present matter.

18. Thus considering the facts that the petitioner is woman candidate publicly elected belonging to Scheduled Tribe category and resumed office of Sarpanch on 01.04.2023, she was hardly any time to get acquainted with the meetings of Gram Sabha. Secondly it appears that there is veracity in the statement made by the Secretary in the communication to the Up-Sarpanch. He has stated that he has orally informed to the Sarpanch about the Gram Sabha meeting of 26.01.2023. However, in Tipanni, his contention is that he intimated to the Sarpanch in writing to inform what should be the subject to the meeting of 26.01.2023. Moreover, though 4 meetings of Gram Sabha are mandatory under Section 7 of Maharashtra Village Panchayat Act, failure to which disqualification is the result. However, no such mandate is there in Section 3 (2) of Bombay Village Panchayat Gram Sabha Meetings Rules 1959. Moreover, on the day of hearing counsel for petitioner was not there to assist her. As held by the Hon'ble Apex Court matter of removal of an elected public representative should not be treated so lightly, especially when if concerned women belonging to rural areas. It must be acknowledged that these women who succeed in occupying such public offices, do so only after significant struggle.

The Hon'ble Apex Court further observes that the concerned authorities need to be sanitized themselves and work towards creating a more congenial atmosphere where women, such as the appellant, can prove their worth by rendering their services as Sarpanch of the Gram Panchayat.

19. It appears that the Collector failed to appreciate legal position so also there is no clear evidence about oral communication to the petitioner. At one place, the Secretary states that he has informed to the Sarpanch in writing. Thus impugned order is liable to be set aside. As such, I proceed to pass the following order:

ORDER

- i) The Writ Petition is allowed.
- ii) The impugned order dated 03.10.2024 passed in प्र.क्र.म.ग्रा. प. अधि-1959 / कलम 7 (1)/मुंडेगांव /01/2023 -2024 by respondent No.1, Collector, Akola, District Akola is hereby quashed and set aside.
- iii) The petitioner in whose favour stay has already been granted shall be allowed to continue and perform the duties of Sarpanch till the completion of her tenure.

20. The Writ Petition is disposed of in above terms. No order as to the costs.

(Smt. M.S. Jawalkar, J.)

R.S. Sahare