IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1659 OF 2026

Dayanand Shamrao Jadhav
VERSUS
Additional Divisional Commissioner, Pune Division, Pune And Ors

Mr. Amol Thorat a/w Mr. Balkrushna Patil, Ms. Shraddha Patil, Mr. Manoj Patil, for the petitioner
Mr. J. P. Patil, AGP for the State
Mr. Rahul P. Walvekar for respondent no. 3

CORAM : SACHIN S. DESHMUKH, J.
DATE : 16th APRIL, 2026.

P. C. :

1. Heard. Rule. Rule made returnable forthwith. By consent of the parties, the Petition is decided finally at the admission stage.

2. The petitioner raises an exception to the order dated 25/03/2026 rendered by Respondent No. 1 in Gram Panchayat Appeal No. 90/2025 rejecting the prayer for interim relief in an Appeal presented by the Petitioner.

3. The Petitioner, a duly elected member of the Gram Panchayat, has been disqualified by the Authority acting upon a complaint presented by Respondent No. 4. Although served with notice of

these proceedings, Respondent No. 4 has chosen not to appear.

4. Learned counsel for the Petitioner submits that Authorities have grossly erred in accepting the contentions of the Respondents while disqualifying the Petitioner, in ignorance of mandate of Section 129 of the Maharashtra Village Panchayat Act (Hereinafter 'the said Act') which mandates that there has to be a bill presented as contemplated under Section 129(1) of the said Act and preceded by the same, there has to be a demand. In absence of taking recourse to Sub-Section (2), it was not open for the authorities to ignore this mandatory aspect. If the Statute mandates that a particular thing to be done in a particular manner, it has to be done in that manner. Any slight deviation or departure in the same would be impermissible.

5. In support of the contention, ***Manisha Vs. State of Maharashtra Through its Secretary, Rural Development Department and Ors***[1] as well as ***Shaikh Wahed Yakub Vs. The Additional Commissioner and others***[2] to contend that in the absence of a demand being served, the Petitioner cannot be regarded as a defaulter. As such, taking recourse to Section 14(1)(h) of the said

1 2023 SCC OnLine Bom 2104
2 Writ Petition No. 2956/2024 dated 20/12/2024

Act was not available to the authorities.

6. *Per contra*, learned AGP for the State and Learned counsel for Respondent No. 3 have supported the order under challenge submitting that Section 14(1)(h) of the said Act will have to be read in the manner which obligates the elected member to pay the arrears of tax as such, the authorities are justified while passing the order and disqualifying the petitioner.

7. Upon hearing the rival submissions and perusing the record, it is evident that while a tax bill was presented to the Petitioner on 23/06/2023 indicating that in the event of failure to pay the bill, the mandatory demand notice contemplated under Section 129(2) of the Act will be served, which was never served.

8. At this juncture it would be apt to reproduce the Section 129(1)(2) and 14(1)(h) of the said Act which reads as follows:

> *"129. (1) When any tax or fee has become due, a panchayat shall, with least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.*
>
> *(2)* ***If any person fails to pay any tax or fee*** *or any other*

> *sum due from him to a panchayat under this Act or the rules on or before the specified date of payment,* ***the panchayat shall cause a writ of demand in the*** *prescribed from to be served on the defaulter.*
>
> *14(1)(h) fails to pay any tax or fee due to the panchayat 1[or the Zilla Parishad within three months from the date on which the amount of such tax or fee is <u>demanded</u>,* ***and*** *a bill for the purpose is <u>duly served</u> on him ;"*

9. A plain reading of this provision reveals that disqualification is contingent upon two distinct, however, conjunctive conditions: first, that a bill for the tax or fee must be "duly served," and second, that the amount must be "demanded." It is only upon the failure to pay within the stipulated period following such a demand a member incurs disqualification.

10. The procedure for such recovery is further delineated under Section 129 of the Act. While Section 129(1) provides for the initial presentation of the bill, Section 129(2) mandates that if the amount is not paid within fifteen days, the authority shall cause a notice of demand to be served. Thus, there is twofold statutory requirement i.e. presentation of bill and service of a demand notice is a condition

precedent before declaring a member a "defaulter."

11. In the instant case, while the service of the tax bill on 23/06/2023 is undisputed, the Respondents admittedly failed to issue the statutory demand notice contemplated under Section 129(2). Notably, the bill itself contained a stipulation that in the event of non-payment, a formal demand would be served after the expiry of 15 days.

12. Despite this internal acknowledgment of the legal process, the record is devoid of any evidence that such a demand was ever served upon the Petitioner. In the absence of this mandatory second step, the essential ingredients of Section 14(1)(h) remain unfulfilled. Consequently, the Petitioner cannot be regarded as a "defaulter" in the eyes of the law.

13. The Respondents' contention that the Petitioner incurred disqualification upon the mere presentation of the bill, in exclusion of the mandatory demand notice is legally untenable. As the statutory procedure for declaring a default was not strictly adhered to, therefore, the impugned order of disqualification cannot be sustained and does not warrant further consideration.

14. Equally, the Hon'ble Apex Court in the case of ***Municipal Corporation of Greater Mumbai v. Abhilash Lal & Ors***[3] that if the statute mandates something to be done in particular manner, it has to be done in that manner and if done in derogation of the same, will have to be regarded as unsustainable. Thus, the reliance placed by the Petitioner in the case of ***Manisha*** **and** ***Shaikh Wahed Yakub (Supra)*** renders support to the contention put forth by the Petitioner.

15. It is, therefore, a settled position of law that the power to invoke disqualification is not unfettered; it is regulated by the procedural mandates of the Act. Section 129(2) obligates the authorities to follow the presentation of a bill under Section 129(1) with a formal demand served in the prescribed form. Unless this specific recourse is taken, a member cannot be regarded as a "defaulter" for the purpose of disqualification. In the present case, since the demand was never ever served, the eventual recourse to Section 14(1)(h) was legally unavailable to the authorities, rendering the impugned action illegal and unsustainable.

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3 AIRONLINE 2019 SC 1570

16. Resultantly, Writ Petition is allowed.

17. The impugned order dated 25/03/2026 rendered by Respondent No. 1 in Gram Panchayat Appeal No. 90/2025 is quashed and set aside.

18. Rule is made absolute in above terms.

[SACHIN S. DESHMUKH, J.]