

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2307 OF 2014

Anisoddin s/o Kamroddin Kazi,
Age: 41 years, Occ: Agri.,
R/o. Kazi Mohalla, Kannad,
Tq. Kannad, Dist. Aurangabad.

...Petitioner

versus

1. The State of Maharashtra,
Through the Secretary,
Urban Development, Public Health
and Housing Department,
Mantralaya, Mumbai-32.
2. The Collector,
Aurangabad.
3. The Chief Officer,
Municipal Council, Kannad,
Tq. Kannad, Dist. Aurangabad.
4. Smt. Shahenaz Begum Sayad Khalid
Salar, Age: Major, Occ: Municipal
Councilor, R/o. Tilak Nagar,
in front of Bungalow of Teli, Kannad,
Tq. Kannad, Dist. Aurangabad.
5. Sayed Gafar s/o Sayad Yusuf,
Age: Major, Occ: Business,
R/o. Tilak Nagar, in front of Bungalow of Teli,
Kannad, Tq. Kannad, Dist. Aurangabad. ...Respondents

.....

Mr. S.W. Munde, Advocate for petitioner.
Mr. S. P. Daund, A.G.P. for respondent/State.
Mr. B.S. Shinde, Advocate for respondent No.4.
Mr. P.F. Patni, Advocate for respondent No.5.

.....

CORAM : N.W. SAMBRE, J.

DATE : 28TH APRIL, 2015

ORAL ORDER :

The petitioner has questioned the order dated 20/01/2014 passed by the respondent-Collector in view of the provisions of Section 44(e) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965 (hereinafter shall be referred to 'the Act' for sake of brevity), whereby the prayer of the petitioner for disqualification of respondent No. 4 came to be rejected.

2. The petitioner sought disqualification on the ground that the structure which is standing on the Reservation No. 5 of the forest land was at the behest of respondent No. 4.

3. It has come on record that for carrying out the said construction, the permission was granted on 04/07/1992, the date on which respondent No. 4 was not Counsellor.

4. It is required to be noted that the provisions of Section 44(e) of the Act attracts in case of disqualification of the Counsellor, provided the act attributed therein is carried out during such term.

5. Admittedly, in 1992 respondent No. 4 was not

Counsellor, as such order dated 20/01/2014 is in tune with the provisions of Section 44(e) of the Act, as such no interference to that effect is called for.

6. The petitioner has also made prayer for removal of encroachment at Survey No. 40 vide Reservation No. 5 which according to him is forest land, for the same he has placed reliance on development plan in table No.15.

7. The Collector has not dealt with the said issue.

8. In view of said prayer, if such encroachment is on the forest Department land as is alleged by the petitioner, the Collector to cause appropriate inquiry in the matter and pass appropriate order for removal of encroachment in accordance with law. The writ petition stands disposed of.

[N.W. SAMBRE, J.]