

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

WRIT PETITION NO. 10372 OF 2015

Sunita Pravin Suryawanshi,
Age: 25 years, Occ: Agri.,
R/o. Gojore, Tq. Bhusawal,
Dist. Jalgaon.

...Petitioner

versus

The State of Maharashtra,
through its Principal Secretary
Rural Development Department,
Mantralaya, Mumbai-32 & ors.

...Respondents

.....
Mr. A.C. Deshpande, Advocate for petitioner
Mr. R.V. Dasalkar, A.G.P. for respondents
.....

CORAM : N.W. SAMBRE, J.

DATE : 17th NOVEMBER, 2015

ORAL ORDER :

Learned Counsel for the petitioner, while questioning the order of disqualification passed under Section 14(1)(j-5) of the Bombay Village Panchayat Act passed by Collector, Jalgaon and approved in appeal by the Divisional Commissioner, Nashik Division, Nashik, would urge that at the time of filing of nomination form of election for member of panchayat, she has complied the statutory requirement prescribed thereunder by submitting the certificate about use of toilet. According to him, she has produced certificate that at the relevant time when she was elected, petitioner was using public

toilet. According to him, once the certificate is already produced with nomination form, it is not necessary for petitioner to repeat the same and as such, provisions of Section 14(1)(j-5) of the Bombay Village Panchayat Act are not attracted.

2. Learned A.G.P., while opposing the petition, would urge that it is clear from language of Section 14(1)(j-5) of the Bombay Village Panchayat Act, compliance should be made after the election by the elected members. According to him, both the authorities have rightly held against her and ordered her disqualification and prayed for dismissal of the petition.

3. It is required to be noted that it is the case of petitioner that at the time of submitting nomination form for the post of member of Panchayat, she has submitted certificate that she is using public toilet which was available in the village.

4. Subsequent to the election, it appears to be the case of petitioner from record that she was residing in rented premises and was using toilet, which was attached to the said premises. It is required to be noted here that in case the petitioner has come out with the case as regards use of rented premises and use of toilet attached thereto, same is required to be certified from the competent

authority as is provided in Section 14(1)(j-5) of the Bombay Village Panchayat Act. The said Section is clear and imposed duty on the petitioner who is elected as Councillor to comply with the requirements within time stipulated thereunder, which admittedly the petitioner has not complied with. In view thereof, stand taken by the petitioner that she has complied with the requirements as per Section 14(1)(j-5) of the Act at the time of filing nomination form will be of hardly any assistance.

5. In view of above and in view of concurrent findings recorded against the present petitioner, in my opinion, this petition does not call for any interference, as such, fails and stands dismissed.

[N.W. SAMBRE, J.]