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

**WRIT PETITION NO. 11785 OF 2014
WITH
CIVIL APPLICATION NO. 3568 OF 2015
WITH
CIVIL APPLICATION NO. 4421 OF 2015**

1. Vilas s/o Bhaskarrao Rajgire,
Age: 45 years, Occu: Agril.,
R/o Dudhanwadi, Tq. Badnapur,
Dist. Jalna
 2. Vishnu s/o Daulat Bharti,
Age: 55 years, Occu: Agril.,
R/o Dudhanwadi, Tq. Badnapur,
Dist. Jalna
- ..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32
 2. The Divisional Commissioner,
Aurangabad Division, Aurangabad
 3. The Additional Collector,
Jalna, Tq. & Dist. Jalna
 4. The Gramsevak,
Village Panchayat, Dudhanwadi,
Tq. Badnapur, Dist. Jalna
 5. Vishnu s/o Baburao Shinde,
Age: 45 years, Occu: Agril.,
R/o Dudhanwadi, Tq. Badnapur,
Dist. Jalna
- ..RESPONDENTS

Mr Deelip Patil Bankar, Advocate holding for Mr Someshwar M. Gunjal,
Advocate for petitioners;
Mr B. A. Shinde, Asstt. Govt. Pleader for respondent No. 1 to 3;
Mr R. V. Gore, Advocate for respondent no. 4
Mr G. B. Kulkarni, Advocate for respondent No. 5

(2)

CORAM : N.W. SAMBRE, J.

DATE : 17th November, 2015

ORAL JUDGMENT :

Rule. Rule made returnable forthwith and petition is heard finally with the consent of the parties.

2. Respondent no.5 was elected as a member of Village Panchayat, Dudhanwadi, Taluka Badnapur, District Jalna and was also selected as one of the beneficiaries by the Village Panchayat for construction of a well in his field, pursuant to a resolution passed by the Village Panchayat, to which he is a party. As such, the Collector, in exercise of powers under section 14 (1) (g) of the Maharashtra Village Panchayats Act, 1958 (hereinafter referred to as the "Act", for the sake of brevity) ordered disqualification of respondent no.5, which was reversed in appeal by the appellate authority on the ground that the power to get benefit for construction of well are conferred by the Government Resolutions dated 29th March, 2011 and 10th March, 2011, in addition that respondent no.5 was selected as beneficiary in the list prepared to that effect in 2002-03 by District Rural Development Agency. According to the appellate authority, the provisions of section 14 (1) (g) of the Act cannot be stretched to the extent of ordering disqualification of respondent no.5 and as such, it set aside disqualification of respondent no.5.

(3)

3. Having heard the respective learned Counsel, it is noticed that the issue involved in the instant petition is squarely covered by the judgment of this Court in the matter of **Sau. Ashabai w/o Laxman Gawande vs. Additional Commissioner, Amravati & ors.**, reported in **2005 (2) ALL MR 626**. Relying upon the above referred judgment, Mr Bankar Patil, learned Counsel appearing on behalf of the petitioners would urge that the provisions of section 14 (1) (g) of the Act are penal in nature and cannot be given a liberal interpretation, so as to absolve respondent no.5 of the charges levelled against him as the petitioners were complainants against him before the Collector.

4. While opposing the aforesaid submissions, Mr Kulkarni, learned Counsel appearing on behalf of respondent no.5 would submit that the name of respondent no.5 finds place in the list of persons below poverty line (BPL), selected as a beneficiary of the scheme for construction of wells in the fields, prepared way back in 2002-03. He would then suggest that if the Government policy confers right in respondent no.5 to claim such benefits, the provisions of section 14 (1) (g) of the Act, cannot be stretched so much so to disqualify respondent no.5. He would then urge that the Government policy would have overriding effect over section 14 (1) (g) of the Act.

5. However, as is rightly observed herein above, since the issue involved in the instant petition is squarely covered by the judgment rendered by this Court in the matter of **Sau. Ashabai w/o Laxman Gawande**

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(cited supra), this Court, would like only to add that the Government policy cannot go contrary to the provisions of statute and if the policy confers any benefit, particularly as in the present case, as is canvassed by respondent no.5, the same has to be read in the light of section 14 (1) (g) of the Act. The Government policy cannot have overriding effect on the statutory provisions.

6. In view of above, in my opinion, petition deserves to be and is accordingly allowed.

7. For the reasons stated herein-above, Rule is made absolute in terms of prayer clause (A).

8. In view of above, Civil Application Nos.3568 OF 2015 and 4421 of 2015 do not survive and stand disposed of accordingly.

(N.W. SAMBRE, J.)

amj