

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.19740 OF 2015

Smt. Rupali Sunil Zodge

.. Petitioner

Versus

Shri. Nandkumar Laxman Borhade and others

.. Respondents

Mr. S. A. Sawant i/by Mr. M. B. Kale, for the Petitioner.

Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.2 to 4.

CORAM : R.M. SAVANT, J.

DATE : 24th JULY, 2015

PC.

1. The Petitioner has been disqualified as Sarpanch of the Ghodegaon Gram Panchayat, Taluka Ambegaon, District Pune, under Section 14(J-3) of the Maharashtra Village Panchayat Act, 1958. The ground for disqualification is the alleged unauthorized construction carried out by the husband of the Petitioner. The Learned Counsel for the Petitioner relies upon a judgment of a Learned Single Judge of this Court reported in 2013(1) ALL MR 5 in the matter of Sou. Kanchan Shivaji Atigre Vs. Mahadev Baban Ranjagane and Ors. as also another judgment of the same Learned Single Judge reported in 2012(11) LJSOFT 18 in the matter of Smt. Yallubai Maruti Kamble Vs. State of Maharashtra and Ors., wherein, it has been held that the said provision cannot be invoked,

if a family member has encroached upon the government land/public property. The above Petition has been directed against the refusal of stay by the Appellate Authority. The Appellate Authority in the impugned order whilst refusing the stay has fixed the matter on 27.08.2015. In view of the fact that the Appeal filed by the Petitioner is pending and since his right to continue as a Sarpanch is in question, this Court had directed the Learned AGP as within what time the Appeal would be disposed by the Appellate Authority. Upon instructions, the Learned AGP submitted that the Appellate Authority would dispose of the Appeal within the time frame that would be stipulated by this Court. In my view, considering the nature of the order that has been passed against the Petitioner, it would be just and proper to direct the Appeal to be heard on 31.07.2015 and the same to be disposed of latest by 10.08.2015 by giving proper opportunity to the parties. Since the Appeal is a substantive remedy, till the Appeal is decided, no steps to be taken for filling up the post of Sarpanch. With the aforesaid directions, the Writ Petition is disposed of. The Petitioner to appear before the Appellate Authority on 31.07.2015 at 3.00 p.m.

[R.M. SAVANT, J]