IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 201/2015.
Shri Digambar Jawaharlal Patle
-**VERSUS-**
Commissioner, Nagpur Division, Nagpur and others.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri S.S. Dhengale, Advocate for the Petitioner.
Shri K.L. Dharmadhikari, A.G.P. for respondent nos. 1 & 2.
Shri A.R. Ingole, Advocate for Respondent Nos. 4 to 6.

CORAM : R.K. DESHPANDE, J.

DATE : SEPTEMBER 28, 2015.

Heard.

The petitioner moved the Collector for disqualification of respondent nos. 4, 5 and 6 on the ground mentioned under Section 14[1][h] of the Maharashtra Village Panchayat Act. The Collector, allowed the application and disqualified respondent nos. 4, 5 and 6 from holding the post. This order has been set aside by the Commissioner, Nagpur Division, Nagpur on 13.01.2015, hence, the petitioner who was the complainant is, before this Court.

The provisions of Section 14[1][h] of the Maharashtra Village Panchayats Act, being relevant, is reproduced below :

> "*14[1][h]. fails to pay any tax or fee due to the Panchayat [or the Zilla Parishad within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him]*"

Learned counsel for the petitioner has relied upon Rule 8 in Part-II of the Maharashtra Village Panchayats Taxes and Fees Rules, 1960, which is reproduced below :

> "*8. Tax effective from what date – The tax shall be leviable for the year beginning on 1st April and ending on 31st March and shall not come into force except on the following dates, viz.1st April, 1st July, 1st October or 1st January, in any year and if it comes into force on any day other than the 1st April it shall be leviable by the quarter till the 1st April next following.*"

It is the submission of the learned counsel for the petitioner that in view of Rule 8, reproduced above, the taxes in respect of the building becomes due and payable on 1st April, 1st July, 1st October and 1st January. He submits that in the present case, notice of demand was issued to the respondents on 05.06.2013 and they have not deposited the amount of taxes till 05.09.2013, i.e. within a period of 90 days from the date of service of notice and hence, Collector has rightly disqualified them from holding the post.

The learned counsel for the petitioner could not point out the period for which the demand of tax was made. Keeping in view the provisions of Rule 8, reproduced above, the tax becomes due on 1st April, 1st July, 1st October and 1st January. It is not understood as to how notice of demand was issued on 05.06.2013. There is nothing on record to show the period for which such demand was issued. It is also not possible to ascertain as to whether the said amount had become due and payable.

In absence of all these facts, no case is made out for seeking disqualification of the respondents. No fault can be found with the view taken by the Commissioner. Writ Petition is, therefore, dismissed.

JUDGE

Rgd.