

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3667 OF 2015.

(NILKANTH NINAJI LANJULKAR..VS..ADDITIONAL COMMISSIONER, AMRAVATI & 3 OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : JULY 06, 2015.

Heard Mr A.M.Tirukh, the learned advocate for the petitioner, Mr. N.S. Khubalkar, the learned A.G.P. for the respondent Nos. 1 and 2 and Mr. P.A. Kadu, the learned advocate for the respondent No.4.

The petitioner has challenged the order passed by the learned Additional Commissioner allowing the appeal filed by the respondent No.4 and disqualifying the petitioner from continuing as member of the Gram Panchayat.

The learned Additional Commissioner has rightly relied on the judgment given by the Division Bench of this Court in the case of *Aruna Pramod Rele Vs. Addl. Commissioner, Amravati Divn. & Ors.* in **L.P.A.No.537 of 2011**. Another Division Bench of this Court in the judgment given in the case of *Devidas Matiramji Surwade Vs. Additional Commr., Amravati Division, Amravati*, reported in **2013(2) ABR 579**. In paragraph 5 of this judgment it is laid down as follows :

“5. We find that there is a definite object in making the said amendment to the provisions of disqualification and the object is that one, who encroaches upon the Government land of

the Government property, cannot make any claim to represent the people by becoming an elected member of the Gram Panchayat. The term person in the said amended provision has to be interpreted to mean the legal heirs of such person, who has encroached and continues to occupy the Government land or the Government property, his agent, assignee or transferee or as the case may be. If such an interpretation is not made in the said provision, the result would be absurd in the sense that the Government land would continue to remain encroached and the legal heirs or the assignees or the transferees remaining on such encroached Government land shall claim the right to get elected as a member of democratically elected body. In no case our conscious permits such type of interpretation to defeat the very object of the Bombay Village Panchayats (Amendment) Act, 2006.”

The conclusions recorded by the learned Additional Commissioner are in consonance with the law laid down by this Court.

The petitioner has not been able to show that the finding of fact recorded by the learned Additional Commissioner that there is encroachment by the parents of the petitioner on government land while undertaking construction of the house is not proper. It is undisputed that the petitioner is residing with his parents in the same house, part of the construction of which encroaches on the government land.

The order passed by the learned Additional Commissioner is proper and does not require any interference.

The petition is dismissed. In the circumstances,
the parties to bear their own costs.

JUDGE

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