

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

WRIT PETITION NO.7292 OF 2014

Krishna Modkuji Nagrikar
-vs-
Yashram Kawaduji Shende & Ors.

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

Court's or Judge's Orders.

Shri R. D. Karode, Advocate for petitioner.
Shri Shashikant Borkar, Advocate for respondent No.1.
Shri C. N. Adgokar, AGP for respondent Nos.4 to 6.

CORAM : A.S.CHANDURKAR, J.
DATE : JULY 15, 2015

Rule. Heard finally with consent of learned counsel for the parties.

Challenge in this writ petition is to the order passed by respondent No.6 in appeal filed under Section 16 of the Maharashtra Village Panchayat Act, 1958 whereby the disqualification of the petitioner as ordered by the respondent No.5 has been maintained.

On complaint filed by the respondent No.1 that the petitioner had committed encroachment and was liable to be disqualified under provisions of Section-14(j)(iii) of the said Act, the respondent No.5 by order dated 19/10/2013 disqualified the petitioner. The appeal filed by the present petitioner came to be dismissed by respondent No.6 holding that the order passed by respondent No.5 was proper.

It is not necessary to go into the merits of the matter as the Additional Commissioner while dismissing the appeal has not considered the various grounds raised by the petitioner in

the memorandum of appeal. An appeal under Section 16 of the said Act is a statutory remedy and therefore the Appellate Authority was expected to assign some reasons in its order even if it ultimately confirmed the order of the Additional Collector.

There are however no reasons assigned in the impugned order while dismissing the appeal. The adjudication therefore does not indicate judicious consideration of the appeal. Hence on this short ground, the impugned order dated 16/06/2014 passed by respondent No.6 is set aside.

The proceedings are remitted to the respondent No.6 for fresh adjudication in accordance with law. The appeal shall be decided on its own merits by considering the observations made herein above. It is made clear that this Court has not examined the correctness of the reasons assigned by the Additional Collector in the order dated 19/10/2013.

The parties shall appear before the respondent No.6 on 27/07/2015 and appeal shall be decided within period of two months from said date.

As the impugned orders were stayed during pendency of the petition, the order of disqualification dated 19/10/2013 shall remain stayed during pendency of the appeal.

Rule is made absolute in aforesaid terms. No order as to costs.

JUDGE