

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

Writ Petition No. 7682 of 2011

* Vikas Raosaheb Dandge,
Age 45 years,
Occupation : Agriculture,
R/o Varud Kazi,
Taluka & District Aurangabad. .. **Petitioner.**

Versus

- 1) The Additional Collector,
Aurangabad,
District Aurangabad.
- 2) The Grampanchayat Varud Kazi,
Taluka & District Aurangabad
Through its Gramsevak.

(Petition is dismissed as against
respondent No.2 as per order
dated 13-1-2012)

- 3) Suryabhan Eknathrao Dandge,
Age 45 years,
Occupation: Agriculture
- 4) Shrimant Dadarao Dandge,
Age 43 years,
Occupation: Agriculture.
- 5) Babasaheb Ramrao Dandge,
Age 38 years,
Occupation: Agriculture.
- 6) Sanjay Shivaji Pakhare,
Age 39 years,
Occupation: Agriculture.

- 7) Sominath Annarao Dandge,
Age 45 years,
Occupation: Agriculture.

All R/o Varud Kazi,
Taluka & District Aurangabad. .. **Respondents.**

Shri. Sachin S. Deshmukh, Advocate, for petitioner.

Shri. U.H. Bhogale, Assistant Government Pleader, for
respondent No.1.

Shri. A.S. Bayas, Advocate, for respondent Nos.3 to 7.

CORAM: T.V. NALAWADE, J.

DATE : 26 OCTOBER 2016

JUDGMENT:

1) The petition is filed to challenge the order made by the learned Additional Commissioner in Appeal No. No.23/2011. The learned Additional Commissioner has set aside the order made by the learned Additional Collector in a proceeding filed for disqualification under section 14(1)(j-1) of the Maharashtra Village Panchayats Act, 1958. The Collector had dismissed the proceeding and by allowing the appeal, the learned Additional Commissioner has disqualified the present petitioner. Both the sides are heard.

2) In the application filed against present petitioner it was contended that on the date of the nomination, the petitioner was having three issues and the third issue was born after the relevant date i.e. after 13-9-2000 and so he was not eligible to contest the election to the village panchayat. The record in respect of birth of three children and the record of mutation was produced in support of the contention.

3) The petitioner took defence that he had only two issues who were born in 1994 and in 1996. He took the defence that as his first wife died he had married the second wife, Archana but as there was some dispute the parties had filed proceeding under section 13-B of the Hindu Marriage Act for mutual divorce and the divorce was given by the competent authority on 30-10-2004. It was contended that, as one issue was born to said Archana on 30-3-2006 the petitioner cannot be disqualified. He has specifically contended that the third issue by name Sarthak was not born from him to Archana.

4) The main record in support of the allegation is the record of mutation. The record shows that on the basis of application given by the present petitioner, Vikas Dandge, his agricultural land was partitioned between his two sons like Shyamsagar and Sarthak alias Bablu in the year 2008 and the mutation was sanctioned on 29-2-2008. He had filed affidavit and partition document before the revenue authority for effecting mutation and he had made statement that he had partitioned the property between these two sons. Accordingly entry was made in the revenue record of the names of both the sides. Archana had shown her name as Archana Vikas. Thus, even in the year 2008 Archana was showing the name of present petitioner as her husband.

5) Present case is a glaring instance about the modus operandi which some politicians use to remain in active politics. Name of the said boy was shown as Bablu @ Sarthak in the school record and the name of father was shown as Vikas and the surname was shown as Patil. Marriage of the first issue, daughter of Vikas was solemnized in the year 2010. The marriage invitation card

produced before the authority showed that the photograph of Sarthak was there on this invitation card to show that he was brother of Anjali. When query was made by this Court and the learned counsel for the petitioner was asked to explain as to why the land was partitioned if relationship between Archana and present petitioner was put to an end, there was no reply to this query. Weak argument was made by making submission that there is possibility that to make arrangement for livelihood of Archana some land was given. Such possibility is not there and the land could not have been given either to Sarthak or to Archana by effecting mutation in view of the provisions of the Transfer of Property Act and the Indian Registration Act. If the petitioner had no relation with Archana or Sarthak, there was no question of such partition. Learned Additional Collector did not apply mind and did not consider the aforesaid circumstances. He simply held that when present petitioner had denied the paternity it was not open to presume that Sarthak was the child born from present petitioner. The aforesaid circumstances are considered by the learned Additional Commissioner, and rightly so. There is no other possibility.

It will be open to the present petitioner to go to Civil Court for declaration that Sarthak is not his son only if the petitioner shows readiness to go for DNA test and he makes the Government and present respondent Nos.3 to 7 party defendants to the suit. Such option will be open to the present petitioner if Sarthak is not his son. This Court holds that it is not possible to interfere in the order made by the learned Additional Commissioner. In the result, the petition is dismissed. Rule is discharged.

Sd/-
(T.V. NALAWADE, J.)

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