

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

WRIT PETITION NO.12357 OF 2015 WITH
CIVIL APPLICATION NO.1956 OF 2016

Rajesh s/o Baburao Raut ... PETITIONER

VERSUS

Arjun s/o Sarjerao Ubale & ors. ... RESPONDENTS

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Shri P.P. More, Advocate for petitioner
Shri G.B. Kulkarni, Advocate for respondent No.1
Shri S.S. Tope, Advocate for respondent No.2 & 3
Shri Y.K. Bobade, Advocate for respondent No.4
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CORAM: T.V. NALAWADE, J.

DATED: 23rd December, 2016.

ORAL ORDER :

1. The petition is filed to challenge the order made by learned Additional Commissioner, Aurangabad in disqualification proceeding No.239/2014. Both the sides are heard.

2. Proceeding was started against the present petitioner, who is member of Panchayat Samiti, Ghansawangi, for disqualification under the provisions of Section 16(1)(i) read with Section 40(2) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961. There was allegation against him that he misused his post and got sanctioned a Nursery and also got the

work of digging well executed by using MANREGA Scheme and that he had interest in the work executed under the schemes of the Government and so, he is disqualified.

3. The learned counsel for petitioner submitted that, the petitioner became Member in the elections held on 17/2.2012 and the meeting was held on 14.3.2012. Learned counsel submitted that, technical sanction in respect of the schemes was given prior to the date of his assuming office and so, it cannot be said that he misused his post and he had interest in the works. It was also submitted by the petitioner that, as the petitioner is a poor person, in any way, he is entitled to get the benefit of the Government schemes.

4. In view of the aforesaid submission, this Court went through the Circular issued by the State Government bearing No.Misc.-2011/C.No.82/P.R.4, dated 29th March 2011. This document shows that, decision was taken by the Government to give some financial aid to Village Panchayat. Each Village Panchayat having population of more than 2000 was to be given Rs.2 Lakh and the Village Panchayat was to see that at least one Nursery was started within its jurisdiction. Similarly, the amount of Rs.20 Lakh was to be given to Village Panchayat and by using this amount, at least 10 wells were to be taken in each village

and the value of each well was to be Rs.2 Lakh.

5. Learned counsel for the petitioner took this Court through some record showing the administrative sanction and it shows that, for the present village, administrative sanction was given in respect of Nursery on 30/12/2011. Even if it is presumed that administrative sanction in respect of 10 wells was given in the year 2011, the fact remains that after getting that sanction, it becomes the job of Village Panchayat to make resolution and give this work to some persons of the village so that the villagers are benefited. The order made by the learned Additional Commissioner shows that, on 17.4.2012 the sanction in respect of the amount for well was given and on 29/12/2012 the sanction in respect of the amount for Nursery was given for the present village. This village is from the group of Tembhi Panchayat Samiti. When a query was made, the learned counsel for the petitioner submitted that, he has no record to show as to when the resolution was passed by the Village Panchayat in favour of the petitioner. The Collector has mentioned the aforesaid two circumstances about the petitioner to give decision against him.

6. In view of the aforesaid circumstances, it is clear that only due to circumstance that the petitioner is a member of

Panchayat Samiti of the said group and as Village Panchayat apparently works under the influence of the persons who are there in Panchayat Samiti, the benefit of both the schemes was given to the present petitioner and that was given after resuming the office by him in the Panchayat Samiti. Thus, it is a clear case of disqualification under the aforesaid provisions.

7. Learned counsel for the petitioner placed reliance on some observations made by learned Single Judge of this Court in Writ Petition No.1524/2014, on 10/3/2016 for giving the interim relief. It is surprising that the observations made while granting interim relief are relied for getting final decision in the matter. Now the entire material is before this Court and so, these observations made for interim relief are of no help to the petitioner. It is unfortunate that the matter remained pending for one year and due to the stay granted by this Court, the petitioner enjoyed the said relief for one year.

8. Writ Petition is dismissed.

9. Learned counsel for petitioner requested for continuation of the stay. For reasons already given, the request is rejected.

10. In view of dismissal of the writ petition, Civil Application No.1956/2016 filed by respondents for vacating the interim relief does not survive and same stands disposed of.

(T.V. NALAWADE, J.)

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