

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2417 OF 2016**

Sou. Mandakini Babasaheb Sakhare : Petitioner
versus
Sou. Rohini Dattatraya Sakhare and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.2424 OF 2016**

Babasaheb Chandrakant Sakhare : Petitioner
versus
Pravin Dattatraya Jambhulkar and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.2405 OF 2016**

Sou. Ujwala Yashwant Sakhare : Petitioner
versus
Sou. Jaymala Sambhaji Hulawale and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.2412 OF 2016**

Vilas Vitthal Sakhare : Petitioner
versus
Sagar Dattatray Sakhare and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.2413 OF 2016**

Sou.Sarika Sandip Jambhulkar : Petitioner
versus
Rahul Arun Jambhulkar and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.2414 OF 2016**

Ajay Pandharinath Jadhav : Petitioner
versus
Shrikant Dilip Jadhav and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.2415 OF 2016**

Sou.Swati Vishal Hulawale : Petitioner
versus
Sou. Bebi Dilip Hulawale and ors. : Respondents.

**ALONG WITH
WRIT PETITION NO.2416 OF 2016**

Sou. Sarika Sandeep Jambhulkar : Petitioner
versus
Sou. Rekha Sandeep Sakhare and ors. : Respondents.

Mr. Abhijit P Kulkarni a/w Mr. Manoj Badgujar for the Petitioners in all the above Writ Petitions.

Mr. A V Anturkar, Senior Advocate a/w Mr. Prathamesh Bhargude for the Respondent No.1 in all the above Writ Petitions except Writ Petition No.2415/2016.

Mr.Chaitanya Nikte for the Respondent No.1 in Writ Petition No.2415/2016.

CORAM : R. M. SAVANT, J.
DATE : 10th March 2016

P.C.

1 The above Writ Petitions take exception to the order dated 25/01/2016 passed by the Additional Commissioner, Pune Division, Pune by which order the Applications for stay filed by the Respondent No.1 in each of the above Petitions came to be allowed and the order dated 02/01/2016 passed by the Collector, Pune disqualifying the Respondent No.1 in each of the above Petitions as the members of the Grampanchayat, Hinjwadi, Pune came to be stayed.

2 It seems that each of the Respondent No.1 to the above Petitions has been disqualified under Section 14(i)(j) of the Maharashtra Village

Panchayats Act, 1958 viz. carrying out encroachment on government property. The above Petitions were moved for urgent reliefs by the Petitioners who are the Complainants before the Collector, Pune in view of the nature of the interim stay granted. In view of the fact that as many as 8 Grampanchayats members were disqualified, an Administrator came to be appointed on the said Village Panchayat, as the said 8 members were out of the 17 who constituted the Village Panchayat.

3 A learned Single Judge of this Court (M.S.Sonak, J) having regard to the disqualification of the Respondent No.1 in each of the above Petitions as also having regard to the fact that the Administrator was appointed and taking advantage of the interim stay granted vide the impugned order so as to prevent the Administrator from taking charge of the said Grampanchayat, stayed the impugned order by the order dated 24/02/2016. The learned Single Judge has referred to the order dated 10/05/2012 in Writ Petition No.4113 of 2012 and it was observed by the learned Single Judge that the said order would impact the disqualification of the Respondent No.1 to each of the above Petitions and therefore no fault could be found with the order disqualifying the Respondent No.1 in each of the above Petitions. The learned Single Judge observed that in any event the instant cases were not the cases where grant of blanket stay was warranted so as to enable the disqualified members to function as full-fledged members of the panchayat pending decision of their Appeals. The learned

Single Judge therefore has clarified in paragraph 6 that till the Petitions were further heard i.e. on 08/03/2016, the members who have been disqualified shall not exercise any rights of vote or otherwise take part in the discussions, if at all, the panchayat holds any of its meeting. Hence by ad-interim order passed in the above Petitions the order was stayed albeit on the conditions mentioned in paragraph 6 of the said order.

4 It is required to be noted that on behalf of the Respondent No.1 appearance of advocate has been shown as also the appearance for the Respondent No.1 in the companion Writ Petition No.2415 of 2016 and therefore it would have to be presumed that they were heard. However, it is sought to be contended that they were not heard when the order dated 24/02/2016 was passed as the said order was passed on the production of papers.

5 The learned Senior Counsel appearing on behalf of the Respondent No.1 in each of the above Petitions Shri A V Anturkar would contend that against the impugned order there is a remedy by way of an Appeal before the appropriate authority and in any event since 8 Grampanchayat members were disqualified who were duly elected, it could not be said that grant of stay was not warranted. The learned Senior Counsel for the Respondent No.1 disputes the applicability of the order dated 20/05/2012

passed in Writ Petition No.4113 of 2012.

6 In my view, it is not possible to accept the contentions urged on behalf of the Respondent No.1 in each of the above Petitions by the learned Senior Counsel Shri A V Anturkar. It is required to be borne in mind that there is an order of disqualification passed against each of the Respondent No.1 to the above Petitions under Section 14(i)(j) of the said Act. Once that be so, the grant of blanket stay is not warranted and at the highest if the stay was granted the same could only have been conditional. In my view, since the Appeals are slated to be heard on 14/03/2016, the interest of justice would be served if the order dated 24/02/2016 is made operative till the disposal of the Appeals and the Appeals are directed to be disposed of within a particular time frame. The Appellate Authority is therefore directed to hear and decide the Appeals filed by the Respondent No.1 in each of the above Petitions latest by 31/03/2016. As indicated above, till then the order dated 24/02/2016 passed by the learned Single Judge of this Court (M.S.Sonak, J.) in the above group of Petitions would continue to operate. Needless to state that the contentions of the parties are kept open for being urged before the Appellate Authority. The Appellate Authority would decide the Appeals on their own merits and in accordance with law uninfluenced by the ad-interim order dated 24/02/2016. With the aforesaid directions, the above Writ Petitions are disposed of.

[R.M.SAVANT, J]