

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.9298 OF 2016**

Tukaram Narayan Patil Petitioner
vs
Bhanudas Bhimrao Suryavanshi & ors .. Respondents

Mr.Y.S.Sankpal for Petitioner
Mr.S.D.Rayarikar for Respondent nos.1 & 2
Mrs.Aparna Vhatkar AGP for Respondent State

CORAM: G.S.KULKARNI, J
DATE: 22 AUGUST, 2016

P.C.

1. Rule returnable forthwith. By consent of the parties taken up for final hearing.
2. Heard learned counsel for the petitioner and learned counsel for respondent nos.1 and 2.
3. This petition challenges an interlocutory order passed by the Additional Commissioner, Pune Division rejecting the stay application filed by the petitioner in an appeal against an order dated 16 March 2016 whereby the Competent Authority (Additional Collector Sangli) had declared the petitioner to be disqualified under the provisions of section 14 (1) (J-3) of the Maharashtra Village

Panchayats Act, 1959. The grounds on which the petitioner was disqualified was that the petitioner has encroached on certain government land which the petitioner disputes. The petitioner has preferred an appeal before the appellate authority (Additional Commissioner Pune Division). By the impugned order the stay application has been rejected by the said appellate authority. Grievance of the petitioner is that no reasons are given for rejecting the stay application. The fact remains that an interlocutory order is challenged in this petition and the main appeal is pending adjudication and it would be appropriate that the appeal itself is decided early by the appellate authority.

4. In pursuance of the earlier orders passed by this Court on behalf of respondent no.2 an affidavit of Mrs Kalpana Dattatraya Dhawale Tahsildar Khanapour Vita District Sangli has been filed disputing the assertions of the petitioner on the merits of the matter. However, as the appeal is pending, it would be appropriate that parties are left to assert their respective pleas before the appellate authority. In the circumstances, further adjudication of the writ petition is not called for. Writ petition is accordingly disposed of.

5. Learned counsel for the petitioner at this stage submits that in the meantime, in view of the disqualification order the State Election Commission has proceeded by notifying a programme to undertake a bye-election on a vacancy which is arising on the disqualification of the petitioner. It is stated that elections are scheduled to be held on 24 August 2016. It is urged the said elections be stayed. This request cannot be accepted. State Election Commission is not a party to these proceedings there is thus no question of stay on the election which even otherwise cannot be granted. Needless to observe that if any such election is conducted the same would be subject to the result of appeal of the petitioner against disqualification, which is pending adjudication.

6. The learned AGP on instructions makes a statement that the appellate authority shall endeavour to decide the appeal of the petitioner as expeditiously as possible and in any case within a period of four weeks from today.

7. Petition is disposed of in the aforesaid terms. Parties are directed to initially approach the appellate authority on 29 August 2016.

Parties to act on an authenticated copy of the order.

(G.S.KULKARNI, J)