

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3788 OF 2016

(PRASHANT KASHINATHJI WAGHMARE & 5 OTH...VS..THE ADDITIONAL COMMISSIONER,
 AMRAVATI & 4 OTH.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : JULY 07, 2016.

Heard Shri S.M. Vaishnav, advocate for the petitioners, Ms R.G. Nitnaware, advocate holding for Shri V.D.Darne, advocate for the respondent No.3/ Caveator and Shri K.R. Lule, A.G.P. for the respondent Nos. 1 and 2.

The respondent No.3 got elected as member of Gram Panchayat in April, 2015 and then as Sarpanch of Gram Panchayat. The petitioners are also members of the Gram Panchayat. The petitioners approached the Collector seeking disqualification of the respondent No.3 under Section 14(1) (j-3) of the Maharashtra Village Panchayats Act, 1958 on the ground that the respondent No.3 has encroached on the government land. The Collector, after conducting inquiry, by the order dated 18th June, 2016 allowed the application filed by the petitioners concluding that the respondent No.3 is disqualified to continue as member or Sarpanch of the Gram Panchayat. The respondent No.3 along with the respondent No.4 filed appeal before the Additional Commissioner. Though the petitioners had filed caveat application, the learned Additional Commissioner granted stay to the effect and operation of the order passed by the Additional Collector

without hearing the petitioners. The petitioners, being aggrieved by the above order passed by the Additional Commissioner, have filed this writ petition.

The learned advocate for the petitioners has submitted that the learned Additional Commissioner has committed gross illegality in granting interim order in favour of the respondent Nos. 3 and 4, without giving notice to the petitioners and without hearing the petitioners. It is submitted that the petitioners having filed caveat application, it was obligatory for the learned Additional Commissioner to give notice to the petitioners and to hear them before passing any interim order in the appeal filed by the respondent Nos. 3 and 4. To support the submission, reliance is placed on paragraph No. 46 of the judgment given in the case of *Mahadev Vs. Special Land Acqu. Officer*, reported in **2011(5) Mh.L.J.532** and the judgment given in the case of *R.B.I. Employees Assn. Vs. Reserve Bank of India*, reported in **AIR 1981 AP 246**.

In the facts of the present case, I am not inclined to consider the technical submissions made on behalf of the petitioners relying on the above referred judgments.

I have examined the documents placed on the record of the petition. After considering the nature of the controversy involved in the proceedings/ appeal before the learned Additional Commissioner, in my view, the interim order granted by the Additional Commissioner does not require any interference by this Court at this stage. The interests of justice would be sub-served by directing the learned Additional Commissioner to dispose the appeal filed

by the respondent Nos. 3 and 4 within three months.

With the above directions, the petition is **disposed of**. The parties to bear their own costs.

JUDGE

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