

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 12220 OF 2017

Tanaji Raosaheb Jadhav

.....Petitioner

V/s.

The State of Maharashtra, through the Secretary
and others

....Respondents

Mr. Amitkumar D. Sale for the petitioner.
Ms. Nisha Mehra AGP for respondent nos. 1 to 3.
Mr. Balwant V. Salunkhe for the respondent no. 5.

**CORAM : SMT. VASANTI A. NAIK,
RIYAZ I. CHAGLA, JJ.**

DATE : NOVEMBER 15, 2017.

P.C.

By this writ petition, the petitioner seeks a direction against the respondent nos. 1 to 4, not to appoint or hand over the charge of the post of Sarpanch of village Asangi (Jath), to the respondent no. 5.

According to the petitioner, on the last date for filing of the nomination for election to the post of Sarpanch, i.e. on 22/09/2017, the respondent no. 5 was disqualified under the provisions of section 14 (1) (g) of the Maharashtra Village Panchayat Act, 1958. It is stated that despite the disqualification, the respondent no. 5 did not disclose the said fact to the election officer and he was elected as Sarpanch. Since the petitioner had also contested the election

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to the post of Sarpanch, the petitioner has filed an election petition challenging the election of the respondent no. 5. It is stated that the election petition is not decided till date and tomorrow, the respondent no. 5 is likely to take the charge of the post of Sarpanch as the tenure of the office of the members of the Grampanchayat would expire today.

We are not inclined to entertain the writ petition in the circumstances of the case for considering the prayer for a direction to the respondent nos. 1 to 4, not to hand over the charge of the post of Sarpanch to the respondent no. 5. Since the petitioner was aggrieved by the election of the respondent no. 5, the petitioner has challenged the election in election petition. The petitioner ought to have pressed for an early hearing of the stay application in the said election petition or an early decision in the election petition. It is informed to this Court by the learned counsel for the respondent no. 5 that the matter is listed before the Court on 21/11/2017 for hearing of the election petition. In the aforesaid set of facts, when the petitioner has sought the relief before the appropriate forum, it would not be proper to issue any direction in exercise of the writ jurisdiction.

Since the relief sought by the petitioner cannot be granted in the circumstances of the case, we dismiss the writ petition with no order as to costs. The points raised in the petition are however, kept open.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A. NAIK, J.]