

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

WRIT PETITION NO.719/2017

Shri Devrao Gosha Rathod and others

..Vs..

Additional Commissioner, Amravati Division, Amravati and others

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

Court's or Judge's orders

Shri C.A. Babrekar, Adv. for the petitioners.
Shri Amit Madiwale, A.G.P. for respondent Nos.1 and 2.
Shri M.V. Raut, Adv. for respondent No.3.
Shri S.D. Tatke, Adv. for respondent Nos.4 and 5.

CORAM : S.C. GUPTE, J.

DATE : 14.9.2017.

Heard learned counsel for the petitioners,
learned A.G.P. for respondent Nos.1 and 2, learned
counsel for respondent No.3 and learned counsel for
respondent Nos.4 and 5.

The subject matter of challenge in the present
petition is an order passed by the Additional Collector,
Yavatmal disqualifying the petitioners as members of
Grampanchayat for failure to submit the certificate and
resolution in terms of Clause (j-5) of Sub-Section (1) of
Section 14 of the Maharashtra Village Panchayats Act.
The petitioners were residing in their own houses with
no toilets in the houses, when they submitted their
nominations for the election of the Grampanchayat and
were elected as members of the Grampanchayat. They
were accordingly disqualified on the application of

respondent Nos.4 and 5 herein. The orders of disqualification were carried by them in appeal before the Additional Commissioner, Amravati Division, Amravati under Section 16(2) of the Maharashtra Village Panchayats Act. By his impugned order dated 25th November, 2016, the Additional Commissioner dismissed their appeal.

It is not in dispute that on the date they were elected, the petitioners were residing in their own houses which did not have toilets. Since there were no toilets, there were no certificates submitted of the Panchayat or resolutions of the Gramsabha in accordance with Clause (j-5) of Sub-Section (1) of Section 14. Learned counsel for the petitioners challenges the impugned orders of the authorities below only on the footing that the petitioners, though residing in their own houses, were regularly using toilets of the houses of their relatives, as they did not have toilets in their own houses. It is submitted that they subsequently constructed toilets in their respective houses. Learned counsel, accordingly, submits that his clients satisfy Clause (j-5).

It is an admitted position that on the date they were elected as members of the Grampanchayat they resided in houses owned by them but did not have toilets in their houses. There is, thus, no certificate of the Panchayat along with the resolution of the Gramsabha within the meaning of Clause (j-5) of Sub-Section (1) of Section 14. If any member of the Gramsabha resides in a house owned by him and has no

toilet in the house and accordingly does not submit a certificate of the concerned Panchayat along with a resolution of the Gramsabha to that effect, he attracts disqualification within the meaning of Clause (j-5). It is no answer that the member actually used a toilet in the house of his relative or constructed a toilet in his own house after his election. Only in a case where such member resides in a house not owned by him and such house does not have a toilet, the member can avoid disqualification under Clause (j-5) if he regularly uses a public toilet and produces a certificate of the concerned Panchayat along with a resolution of the Gramsabha certifying that.

The impugned orders of the authorities below have, accordingly, been correctly passed. No interference is called for under the writ jurisdiction of this Court.

The writ petition has no merits and is accordingly **dismissed**. No order as to costs.

JUDGE