

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

WRIT PETITION NO.2908 OF 2017

(DEVIDAS SAMBHAJI KALE....VS..DIVISIONAL COMMISSIONER & OTH)

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

Court's or Judge's orders

Shri J.A.Malnas, Advocate for Petitioner.
Shri V.P.Maldhure, A.G.P. for Respondent No.1.
Shri J.B.Kasat, Advocate for Respondent Nos.2, 3 & 4.
Shri V.D.Darne, Advocate for Respondent No.5.
Shri H.R.Gadhia, Advocate for Respondent No.6.

CORAM : S.C.GUPTE, J.
DATED : AUGUST 22, 2017.

Heard learned counsel for the respective parties.

The present petition challenges a disqualification order passed by the Divisional Commissioner at Amravati on an application made to him under Section 39 of the Maharashtra Village Panchayats Act, 1958 (hereinafter referred to as "the Act" for brevity). The petitioner was Sarpanch of village Wadgaon-Fattepur, Tahsil : Achalpur, District : Amravati. Respondent No.6 made a complaint against him that he felled trees in the vicinity of Gram Panchayat misusing his powers as Sarpanch, without any permission from the appropriate authority. The Divisional Commissioner issued a notice to the petitioner and conducted an enquiry in this behalf. The petitioner was also represented before the Divisional Commissioner by an advocate. After making an enquiry in this behalf, the Divisional Commissioner came to the conclusion that there was misconduct and

negligence on the part of the petitioner causing monetary losses to the Village Panchayat. The Divisional Commissioner also observed that the provisions of the Maharashtra Felling of Trees (Regulation) Act, 1964 were violated by the petitioner. These observations of the Divisional Commissioner are supported by evidence. There is evidence on record that the Sub-Divisional Officer, Achalpur had earlier conducted an enquiry and found that the petitioner indulged in felling of trees in the vicinity of Gram Panchayat and imposed fine on the petitioner. A panchnama was drawn by the Talathi before the Sarpanch, when parts of the trees were handed over for auction. The estimated cost of the trees amounted to Rs.23,837/- according to the Forest Officer. Learned counsel for the petitioner submits that the petitioner had made applications to the Tree Authority seeking its permission for felling of trees and that under sub-section (1C) of Section 3 of the Act there is a case of deemed permission since there was no decision of the Authority within 60 days from the date of acknowledgment or receipt of the application. Nothing could be pointed out from the record of the case that these applications were either produced before the Divisional Commissioner or the contention that there was a deemed permission in place was actually advanced before the Divisional Commissioner.

In the premises, there is no infirmity in the order of the Divisional Commissioner which calls for interference under Article 226 of the Constitution of India. The petition is accordingly devoid of any merit and is **dismissed**. No order as to costs.

In view of dismissal of the petition, the interim order operating in this petition shall stand vacated forthwith.

JUDGE

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