

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2312 OF 2018
(Bhanudas Vitthalrao Suryawanshi and others Vs. The State of
Maharashtra and others)

Mr.A.S.Londhe, Advocate for the petitioners.
Mr.S.K.Tambe, AGP for State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/03/2018

PER COURT :

1. The petitioners/elected representative are aggrieved by the orders of the Additional Collector, Parbhani dated 29/12/2016, thereby disqualifying these petitioners from continuing as elected members u/s 14(1)(j-5) of the Maharashtra Village Panchayats Act. The petitioners are also aggrieved by the order of the Additional Commissioner, Aurangabad dated 15/01/2018 by which the orders of the Additional Collector have been sustained.

2. I have considered the strenuous submissions of the learned Advocate for the petitioners and the learned AGP on behalf of respondent Nos. 1, 2 and 3.

3. The petitioners contend that they had annexed the certificate of

the Gram Sevak alongwith the nomination forms to indicate that each one of them has a toilet block. The Resolution of the Gram Sabha was however not annexed to the nomination form. After the elections were concluded and the petitioners were declared elected, a panchnama was carried out and a report was submitted on 15/09/2016 which is practically after 13 months of the declaration of the election results, by which it is contended that these petitioners have toilet blocks.

4. Both the Authorities below have concluded that the certificate as well as the resolution is required to be annexed to the nomination form and that has not been done by these petitioners. Failure to submit the resolution of the Gram Sabha would result in the disqualification of such members.

5. The intent and the object of the legislature in introducing this dual condition of a certificate of the concerned Panchayat and the resolution of the Gram Sabha, is apparently to ensure that there would be a strict implementation of the said provision and no person would continue as a member on the basis of a certificate acquired from the Block Development Officer. The resolution of the Gram Sabha is a counter check to ensure that it is conclusively established

that the candidate intending to contest the election, has a toilet block and is using the same. The only option available is that if he does not have a toilet block, he should be using a public toilet and the object of the Act would therefore be fulfilled.

6. This Court has taken a view in Vijay Ramchandra Raut Vs Divisional Commissioner Amravati Division and others [2014(3) Mh.L.J. 641] that the certificate as well as the resolution of the Gram Sabha would be mandatory and failure to annex them to the nomination forms would result in the disqualification of the elected candidate.

7. Considering the above, I do not find that the impugned orders could be termed as being perverse or erroneous. This petition, being devoid of merits, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)