

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2263 OF 2018

RAHUL KUMAR GANGARDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioners : Shri Amol Joshi h/f Shri Kulkarni Sanket S..
AGP for Respondents 1 to 4 : Shri V.S.Badakh.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 24th February, 2018

Per Court:

1 The Petitioners are aggrieved by the order of the Returning Officer dated 14.02.2018 by which, the objections raised by the Petitioners to the nomination of Respondent No.3 have been rejected.

2 The contention of the Petitioners is that the real brother of Respondent No.3, Shivaji Sambhaji Gangarde, who was elected in 2016, was disqualified for having encroached on the Government land under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act. In the enquiry, it was revealed that Respondent No.3 herein (Kundalik Sambhaji Gangarde) had claimed that he was operating the shop on the encroached area and yet, the Returning Officer has accepted the nomination of Respondent No.3 by the impugned order.

3 I find that if this petition is to be entertained, this Court would have to go to the root of the encroachment and investigate as to who is factually responsible for the said encroachment. This exercise may not be possible keeping in view the law laid down by the Honourable Supreme Court in the matter of Sagar Pandurang Dhundare vs. Keshav Aaba Patil and others, 2018 (1) Mh.L.J. 1 : AIR 2017 SC 5420.

4 As such, this Writ Petition is disposed of with liberty to the Petitioners to take recourse to the Maharashtra Village Panchayats Act in the event Respondent No.3 is returned as an elected candidate.

kps

(RAVINDRA V. GHUGE, J.)