IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

WRIT PETITION NO. 12985 OF 2018

Sau. Manda Ramdas Dhumal & another … Petitioners

Versus

The State of Maharashtra & others … Respondents

Mr. M.B.Sdanshiv, Advocate for the Petitioners.
Mrs. V.N. Patil-Jadhav, AGP for Respondents no. 1 to 3.
Mr. K.N. Shermale, Advocate for Respondents no. 5, 6 and 7.

Coram : N.M. Jamdar, J.
Date : 6 December 2018

Oral Order :

1. By this petition, the petitioners have challenged the orders passed by the Collector and the Divisional Commissioner disqualifying the petitioners from being the Sarpanch and the Upa-Sarpanch of the Village Panchayat Benwadi-Kolwadi, and dismissing the Village Panchayat Appeal.

2. The elections for electing the members of the Village Panchayat were held on 29 August 2015 wherein petitioner no. 1 was elected as the Sarpanch and petitioner no. 2 was elected as the Upa-Sarpanch. Respondents no. 7 to 9 filed a dispute bearing no. 8/2018

before the Collector under section 14(1)(h) of the Maharashtra Village Panchayat Act. According to respondents-complainants, petitioners were in arrears of taxes and therefore, stood disqualified. According to respondents-complainants, petitioners had not paid taxes of ₹ 1140/- and ₹ 725/- respectively. Both the authorities have held against the petitioners.

3. It is the contention of the petitioners that there is a methodology prescribed under the provisions of the Maharashtra Village Panchayat Act in respect of recovery of taxes wherein notices have to be issued specifying the arrears and, in the present case, no such notices were issued and when the notices were issued on 25 November 2017, the petitioners had paid the taxes within three days from the date of issuance of such notices. Both the Collector and the Divisional Commissioner have negatived this contention stating that there cannot be such a requirement and the petitioners were admittedly in arrears on the relevant date.

4. The petitioners have taken a specific ground in the petition that the petitioners, upon notice on 25 November 2017, have paid the taxes. Specific argument advanced is that since notice was not issued, taxes were not paid. The argument advanced is that only

after the notice is received, the liability to pay tax will arise.

5. The rules regarding recovery of taxes which apply in ordinary circumstances cannot be *ipso facto* applied in the case of disqualification for non-payment of taxes. Petitioners are seeking to occupy the post of Sarpanch and Upa-Sarpanch. It is a matter of probity in public life, that a person desirous of occupying an elected post should not evade taxes payable to the body to which he seeks the elected post. This expectation is engrafted in the Statute to bring a sense of responsibility and commitment. The ambit of this embargo is different than routine tax collection. The Statute mandates that a person who is defaulter in payment of tax, cannot seek election to the very same body. Otherwise, this will nullify the intent of the provision. Petitioners have not made a specific statement that they were not in arrears of taxes on the relevant date but have taken a stand that they did not receive any notice of arrears and only after receipt of notice, they paid the taxes. Knowing fully well that, being in arrears is a disqualification, before the election the petitioners could have ascertained from the Panchayat the amount of dues and paid the same on their own, which was not done.

6. In the circumstances, both the orders holding that the

petitioners are disqualified suffer from no error. The petition is accordingly rejected.

N.M. Jamdar, J.