

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.354 OF 2018
(Pushpa Ramdash Jadhav Vs. The Additional Commissioner, Nasik
and others)

Mr.R.S.Kasar, Advocate for the petitioner.
Mr.D.A.Bide, Advocate for respondent No.3.
Mr.S.N.Morampalle, AGP for respondent Nos.1 and 2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 10/01/2018

PER COURT :

1. The petitioner is aggrieved by the order of the District Collector dated 14/08/2017, by which his dispute No.26/2017 seeking disqualification of respondent No.3 as an elected member of the Gram Panchayat u/s 14(1)(j-5) of the Maharashtra Village Panchayats Act, for having no toilet block, has been rejected. The petitioner is also aggrieved by the order of the Additional Commissioner dated 16/12/2017, by which Appeal No.589/2017 filed by the petitioner has been rejected for the reason that it is not within limitation.

2. Learned Advocate for the petitioner has strenuously criticized both the orders. Contention is that the petitioner as well as respondent No.3 had not submitted a resolution of the Gram

Panchayat alongwith their nomination forms to indicate that they have a toilet block and they are using it. When an objection was raised against the petitioner, the same Collector has allowed the dispute and has disqualified the petitioner. When the petitioner has raised an objection of a similar nature against respondent No.3 herein, the District Collector has rejected the dispute.

3. Learned Advocate for respondent No.3 points out that a squad commonly known as a 'Good Morning Squad', had visited the village on 31/01/2017 at 5.30 in the morning. The duty of the squad is to ensure that no person is permitted to defecate in the open and every person is expected to use the toilet block. While intercepting such persons and taking their photographs, they noticed that the petitioner did not have a toilet block in her home. There was a semi constructed room which had no door, no W.C. installed and the water tank was empty. It is in this backdrop that a panchanama was drawn and the petitioner was disqualified.

4. The issue in this petition is as to whether the Divisional Commissioner could have declined to entertain the appeal filed by the petitioner for challenging the order of the Collector, beyond 15 days from the date of its pronouncement. This Court, by order dated

26/02/2013 in WP No.8727/2012 has already taken a view that as the Authorities mentioned in the Maharashtra Village Panchayats Act are not Courts, Section 5 of the Limitation Act would not be applicable and as such the issue of condonation of delay beyond the prescribed limit of 15 days, is not open to such Authorities to consider.

5. Section 16(2) of the Maharashtra Village Panchayats Act provides for preferring an appeal to the State Government for challenging the decision of the Collector within a period of 15 days *"from the date of such decision"*.

6. In the light of the above, this petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)