

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6368 OF 2017

Suresh T.Rasal & Ors. .. Petitioners
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr.V.V.Ugle for the petitioners.
Mr.S.H.Kankal, AGP for the respondent nos.1 to 3-State.
Mr.B.D.Joshi a/w Mr.V.V.Pethe for the respondent no.4.

**CORAM : R.D. DHANUKA, J.
DATE : 28th February 2018**

P.C.:

. Rule. Learned AGP appearing for the respondent nos.1 to 3 waives service. Mr.Joshi, learned counsel appearing for the respondent no.4 waives service. By consent of parties, the petition is heard finally forthwith.

2. The respondent no.4 was elected in the election of Gram Panchayat for a period of 2015 to 2020. The petitioners have made a complaint by way of a dispute application against the respondent no.4 before the learned Collector, Pune alleging encroachment on the part of the husband and son of the respondent no.4 by invoking Section 14 (1) (j-3) of the Maharashtra Gram Panchayats Act, 1958 (for short “the said Act”) on the government land. The said application was opposed by the respondent no.4. Learned Collector allowed the said dispute application by an order dated 6th April 2016 and disqualified the respondent no.4.

3. Being aggrieved by the said order, the respondent no.4 filed an appeal before the learned Additional Commissioner, Pune. Learned

Commissioner has set aside the order dated 6th April 2016 passed by the learned Additional Commissioner. It is an admitted position that the allegation made by the petitioners was raised against the husband and son of the respondent no.4 alleging encroachment on the government land under Section 14(1)(j-3) of the said Act.

4. This Court by a judgment dated 19th December 2017 in the case of ***Sou.Anita Hemantkumar Barawade Vs. The State of Maharashtra & Ors. in Writ Petition (St.) No.33885 of 2017*** after advertng to the judgment of the Supreme Court in the case of ***Sagar Pandurang Dhundare Vs. Keshav Aaba Patil & Ors. -(2018) 1 SCC 340*** and has held that if the member himself has committed encroachment on a government land and/or public property, such member can be disqualified under Section 14(1)(j-3) of the said Act. In this case, there is no allegation of the petitioners that the respondent no.4 who is a member of the Gram Panchayat had carried out encroachment on the government land or public property. Supreme Court in the case of ***Sagar Pandurang Dhudare Vs. Keshav Aaba Patil (supra)*** has held that the judgment of this Court delivered on 19th December 2017 in the case of ***Sou.Anita Hemantkumar Barawade (supra)*** squarely applies to the facts of this case. I do not find any infirmity with the impugned order passed by the Additional Commissioner, Pune.

5. Petition is devoid of merits and is accordingly dismissed. Rule is discharged. No order as to costs.

R.D. DHANUKA, J.