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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3000 OF 2018**

Sou. Sugandha Manik Waghmode ...Petitioner
Vs.
Shri Tukaram Ramchandra Khandekar
& ors. ...Respondents

....

Mr. Ajit M. Savagave for the petitioner.
Mr. S.D. Rayrikar, AGP for respondent Nos. 6 & 7.

....
CORAM : M.S.KARNIK, J.

DATE : 3rd DECEMBER, 2018.

P.C. :

Heard learned Counsel for the petitioner and learned AGP for the respondent Nos. 6 and 7. None for the respondent Nos. 1 to 5 though they are duly served.

2. The petitioner is challenging her disqualification as a member of Gram Panchayat, Taluka Jath, District – Sangli. The petitioner was elected as a member of the Gram Panchayat for the election during the period from 2012 to 2017. A Dispute Application was filed by the respondent No.6 in the year 2010 on the allegation that the petitioner by misusing her powers as a Sarpanch awarded

the contract to her brother-in-law and therefore incurred disqualification contemplated under Section 14 (1) (g) of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as 'the Act' for short).

3. The Collector by an order dated 10th April, 2017 disqualified the petitioner under Section 14 (1)(g) of the said Act. The Collector found that the contract was awarded to the close relations of the petitioner during the period when the petitioner was the Sarpanch of the Gram Panchayat. The Collector has further recorded that the petitioner presided over the meeting in which the contract was awarded to the close relations of the petitioner. The Appeal filed by the petitioner before the Additional Commissioner came to be dismissed by the order dated 5/8/2017.

4. Learned Counsel for the petitioner inviting my attention to the decision of this Court in the case of **Sau. Dhrupadabai Laxmanrao Mhaske vs. Additional Commissioner and others** reported in **(2015 (5) Bom. C.R. 308)** submitted that the authorities have not recorded any finding as regards the petitioners direct or indirect interest in the contract. He submits that the Hon'ble Apex

Court in the case of **Gulam Yasin Khan vs. Sahebrao Yeshwantrao Walaskar and ors.** reported in **AIR 1966 SC 1339** has held that the person concerned must have direct or indirect share or interest in the contract.

5. Learned AGP on the other hand supported the impugned order. He submits that a categoric finding has been recorded that the contract has been awarded to close relations of the petitioner and that the petitioner presided over the meetings which took the decision to award the contract. He submits that concurrent findings of fact need not be interfered with.

6. I have gone through the records and impugned order. This Court in the case of **Sau. Dhrupadabai Laxmanrao Mhaske** (supra) has held thus :

“ 4] In the light of this factual aspect, Section 14(1)(g) of the Bombay Village Panchayat Act, need to be seen and it is reproduced below.

"14. Disqualification. - (1) No person shall be a member of a Panchayat continue as such, who -

(a)....

(b).....

.....

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the Panchayat, or in any contract with, by or on behalf of, or employment with or under, the Panchayat."

As per the aforesaid provision, if a person has directly or indirectly, by himself or his partner, any share or interest in the employment with the Gram Panchayat, then it incurs disqualification. It is urged that merely because the petitioner was interested in her son, that would not sufficient to attract disqualification.

5] The learned counsel for the petitioner has relied upon the decision of the Apex Court in the case of Gulam Yasin Khan vrs. Sahebrao Yeshwantrao Walaskar and ors, reported in AIR 1966 SC 1339, wherein the Apex Court has considered Section 15(1) of the Central Provinces & Berar Municipalities Act, 1922, which provided that, "no person shall be eligible for election, selection or nomination as a member of a Committee, if such person had directly or indirectly any share or interest in any contract with, by or on behalf of the Committee, while owning such share or interest". The Apex Court has considered the said provision assuming that clause (1) includes "employment", though it is not specifically mentioned in the said clause.

7] Though the provision of Section 14(1)(g) includes the word "employment", the decision of the Apex Court would squarely govern the controversy involved in the matter. The enquiry has to be whether the petitioner has pecuniary, or material or of a similar nature of interest in the Gram Panchayat and not as to whether the petitioner is interested in her son. Mere relationship of the petitioner with her son would not attract the disqualification under Section 14(1)(g) of the said Act. The authorities below have, therefore, committed an error in holding that the petitioner has incurred disqualification under Section 14(1)(g) of the said Act."

7. In the present case, I find that the authorities below except for stating that the petitioner is closely related to the person to whom the contract is awarded have not tendered any finding or

conducted an enquiry as to whether the petitioner has pecuniary or material or similar nature of interest in the contract awarded. In this view of the matter, the impugned orders are unsustainable.

8. It would be pertinent to mention that the term during which the petitioner was elected as Sarpanch is already over. Learned AGP points out that fresh election have also been held. I have already indicated that even the respondent - original complainant has not appeared in the present proceedings despite service of notice. This Court while issuing notice indicated that an endeavour would be made to dispose of this Petition finally at the stage of admission.

9. In this view of the matter, the Petition is accordingly allowed and the impugned orders are set aside.

(M.S.KARNIK, J.)