

mujahed

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14247 OF 2017

Bharat Prakash Patil

...Petitioner

V/s.

Pradip Babasaheb Koli & Ors

...Respondents

Mr. Uday P. Warunjikar for Petitioner.

Mr. S.D. Rayrikar, AGP for State/Respondent Nos. 3 & 4.

Mr. Sandeep S. Koregave for Respondent No.1.

CORAM : R.D. DHANUKA, J.
DATE : 19TH MARCH, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 4th September, 2017 passed by the learned Additional Commissioner, Pune Division, Pune in Village Panchayat Appeal No. 123 of 2015 thereby dismissing the appeal filed by the petitioner and confirming the order passed by the learned Additional Collector, Kolhapur.

2. The respondent no.1 had filed a complaint against the petitioner under Section 14(1)(g) and 14(1)(h) of the Maharashtra Village Panchayat Act, 1959. The petitioner was elected as a member of the Village Panchayat on 25th July, 2015. Prior to the

date of the petitioner being elected as the member of the Village Panchayat, there was an agreement entered into between the petitioner and the Gram Panchayat on 23rd April, 2015, thereby the Gram Panchayat granting lease of shop no.6 on various terms and conditions described therein in favour of the petitioner. According to the complaint filed by the respondent no.1, the petitioner was in arrears of rent and even otherwise having a contract with the Gram Panchayat and thus was disqualified to contest the election of Gram Panchayat.

3. The learned Collector allowed the dispute application filed by respondent no.1 after recording various reasons. The appeal filed by the petitioner came to be dismissed by the learned Additional Commissioner on 4th September, 2017.

4. Mr. Warunjikar, learned counsel for the petitioner invited my attention to the averments made in the copy of the complaint and the findings recorded by the two authorities below. He submits that the Village Panchayat had already cancelled the lease agreement on 13th August, 2015 and would submit that though a copy of the said resolution was brought to the notice of the appellate authority, the same was not considered in the impugned order.

5. The next submission of the learned counsel for the petitioner is that in the impugned order passed by the learned Additional

Commissioner as well as in the order passed by the learned Additional Collector, a reference is made to Section 14(1)(g) of the Maharashtra Village Panchayat Act, 1959 while disqualifying the petitioner under the said provisions. It is submitted that there is no finding in so far as the alleged violation under Section 14(1)(h) is concerned.

6. The learned counsel for respondent no.1 on the other hand invited my attention to the allegations made in the complaint filed by respondent no.1 against the petitioner. He submits that, since the lease agreement was entered into between the petitioner and the Village Panchayat and since there was an arrears of rent in respect of the said transaction between the petitioner and Village Panchayat, the petitioner was disqualified under Section 14(1)(g) as well as 14(1)(h) of the Maharashtra Village Panchayat Act, 1959. He submits that both the provisions were rightly invoked by the respondent no.1 in the complaint filed before the learned Additional Collector.

7. In so far as, the copy of the resolution relied upon by the learned counsel for the petitioner is concerned, the learned counsel for respondent no.1 submits that the said resolution is alleged to have been passed by the Village Panchayat, after the date of the petitioner having being elected as member of the Village Panchayat and thus is of no assistance to the petitioner.

8. The learned counsel for respondent no.1 invited my attention to the findings of fact rendered by the two authorities below and would submit that though, the finding is categorically recorded that the petitioner was in arrears of the rent as on the date of his contesting election, the petitioner had violated Section 14(1)(g) and 14(1)(h) of the Maharashtra Village Panchayat Act, 1959.

9. A perusal of the record indicates that the so called resolution relied upon by the learned counsel for the petitioner thereby cancelling the lease agreement between the petitioner and the Village Panchayat was passed after the date of the petitioner having being elected as a member of the Village Panchayat. It is thus clear that on the date of the petitioner contesting election, the petitioner had a contract with the Village Panchayat and thus under Section 14(1)(g) of the Maharashtra Village Panchayat Act, 1959, the petitioner was disqualified and could not have contested the election. In so far as, the ground raised by respondent no.1 under Section 14(1)(h) is concerned, a perusal of the record clearly indicates that the petitioner was in arrears of rent under the said lease agreement entered into between the petitioner and Village Panchayat. The petitioner was thus disqualified on this ground also under Section 14(1)(h) of the Maharashtra Village Panchayat Act, 1959.

10. Both the authorities have rendered various findings of fact which are not perverse and thus cannot be interfered by this Court with in this petition filed under Article 227 of the Constitution of India. I do not find any merit in this petition and the same is accordingly dismissed.

11. Mr. Warunjikar, learned counsel for the petitioner seeks stay of the order passed by this Court. It is not in dispute that till date there was no ad-interim stay granted by this Court and thus question of granting any stay does not arise. Application for stay is rejected.

(R.D. DHANUKA, J.)