

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 6845 OF 2019

AMOL ASARAM TALEKAR  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Godhamgaonkar A.G.  
AGP for Respondents 1 & 2 : Shri Yadav-Lonikar S.R.  
Advocate for Respondent 3 : Shri Solanke S.B.  
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CORAM : RAVINDRA V. GHUGE, J.  
Dated: July 16, 2019  
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PER COURT :-

1. The petitioner, by this petition, seeks to challenge Clause 2 of the Order dated 4.6.2019, passed by the District Collector, Aurangabad in a Gram Panchayat Dispute preferred by respondent No.3.

2. I have heard the learned Advocates for the respective parties at length and the learned AGP for the State.

3. It calls for no debate that the disqualification prescribed under Section 14(1)(J-3) of the Maharashtra Village Panchayat Act would enable the District Collector to either conclude that the incumbent elected representative has suffered a disqualification keeping in view

the law laid down by the Honourable Apex Court in the matter of Janabai Vs. Additional Commissioner and others [AIR 2018 SC 5068], or he has to conclude that the elected representative has not committed any encroachment so as to incur such a disqualification.

4. By Clause 2 of the impugned order, the District Collector has directed the petitioner, Up-Sarpanch of Gram Panchayat Gandheli to remove the stone crusher and other material belonging to his father, which is found on the Government land (Gairan) in Gut No.95, S. No.87. The Maharashtra Village Panchayat Act does not permit the District Collector to issue this type of directions.

5. The learned Advocate for respondent No.3 / original complainant submits that he has no objection if clause 2 of the impugned order is set aside since he has already preferred a proceeding under Section 16 of the said Act for challenging the rejection of his application and the conclusion of the District Collector that the petitioner does not incur disqualification under Section 14(1)(J-3) of the said Act.

6. I find that the petitioner is not entitled to approach the Additional Divisional Commissioner under Section 16 of the said Act. He can only approach this Court.

7. In view of the above, this petition is partly allowed to the extent of setting aside the direction of the District Collector at clause 2 appearing in the impugned order. The said direction clause 2, therefore, stands set aside and deleted from the order dated 4.6.2019.

8. This order is restricted to the challenge posed by the petitioner to clause 2 of the impugned order and shall not be an impediment to any proceedings as may be permissible in law.

( RAVINDRA V. GHUGE, J. )

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