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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 7705 OF 2019**

Abhay Ramchandra Menkudale and anotherPetitioners

V/s.

State of Maharashtra and othersRespondents

Mr. Satish S. Raut for the Petitioner

Mr. S. H. Kankal AGP for the State

Mr. Rushikesh C. Barge for respondent no. 2

CORAM : NITIN W. SAMBRE, J.

DATE : JULY 22, 2019.

P.C.

Disqualification proceedings were initiated against the petitioner pursuant to provisions of Maharashtra Village Panchayats Act ('the Act' for short) alleging that father of the petitioner has encroached on the public road.

2 Collector by its order, directed disqualification on 27/12/2016 in exercise of powers under Section 14 & 16 of the Act which was

confirmed by the Commissioner in Appeal. As such, this petition.

3 The submissions are, both these Authorities have not enquired into an issue about the alleged encroachment. According to petitioner, the list of encroachers was prepared by the Grampanchayat way back in 2009. After the notices were issued for removal of encroachment by Grampanchayat, Resolution was passed not to act on this list of encroachers. He submits that the list further directed to be revised upon carrying out actual measurement of the encroached areas. The learned counsel for the petitioner then would urge that the Gramsevak of the village Panchayat has visited the spot, and upon verification submitted a report that the petitioner or his father has not encroached on a public land. A further submission is, notice if any issued by the Grampanchayat since was not acted upon as there was no encroachment, the same ought not to have been considered against the petitioner.

4 *Per contra* the learned counsel for respondent and the learned AGP support the order impugned and sought dismissal.

5 Apart from the fact that father of the petitioner has filed a Suit for injunction against Grampanchayat in which allegation of encroachment is formed to be basis. Father of the petitioner was served with notice dated 16/01/2016 by the Grampanchayat about the alleged encroachment.

6 Admittedly, Civil Court has not granted any injunction in favour of the petitioner or his father in Civil Suit initiated in 2017. Apart from above, whether father of the petitioner or the petitioner no. 2 have encroached on government land was an issue which was discussed in the Gramsabha, particularly in the backdrop of resolution passed by Village Panchayat of revising list of encroachers. Gramsabha has not agreed to the claim put forth before it of no encroachment made by the petitioner.

7 The report of technical expert i.e. Engineer from Public Works Department is relied upon as in the said report, it is reflected that the petitioner has carried out encroachment on the public road.

8 In view of above, in my opinion, no case for interference is made out. Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]