

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1121/2017

Harichandra S/o Shambhaji Dhote
..VS..
Durgabhaiya Umedsingh Rathod & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.K. Paliwal, Advocate for the petitioner
Shri A.Y. Kapgate, Advocate for the respondent no. 2
Ms. Shamsi Haider, AGP for the respondent no. 3

CORAM : Z.A.HAQ, J.
DATED : 04/01/2019

Heard.

The petitioner was elected as the member, in 2015 and then Up-Sarpanch of the Gram Panchayat. By the impugned order, the petitioner is removed from the elected offices on the ground that he is disqualified under Section 14 (1) (j-3) of the Maharashtra Village Panchayats Act 1958, as he has encroached on Government land.

The learned advocate for the petitioner has submitted that the petitioner has not encroached on the Government land but he is occupying the Government land in question in view of the policy of the State Government regarding rehabilitation of the villagers. It is submitted that the proposal for regularizing the possession of the persons who are to be rehabilitated is pending.

The advocate for the respondent no. 2 and the learned AGP have pointed out that fine was imposed on the petitioner for encroaching on the Government land. It is further submitted that till the decision is taken by the Competent Authority to regularize the encroachment, it cannot be said that the petitioner has the right to occupy the Government land.

Considering the facts of the case and the provisions of Section 14 (1) (j-3) of the Act of 1958, I find that the learned Additional Collector has appreciated the controversy properly and it cannot be said that the impugned order suffers from any illegality or error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

Ansari