

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

WRIT PETITION NO. 4307/2019

Bhanudas C. Chauhan

..VS..

Divisional Commissioner & 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.S. Mishra, Advocate for the petitioner
Ms. Geeta Tiwari, AGP for the respondent/State
Shri I.N. Choudhari, Advocate for the respondent no. 3

CORAM : Z.A.HAQ, J.
DATED : 26/06/2019

Heard.

The petitioner had filed an application before the Collector contending that the respondent no. 3 (elected member of the Gram Panchayat) has incurred disqualification under Section 14 (1) (g) of the Maharashtra Village Panchayats Act, 1958 (for short “the Act of 1958”), and therefore she should be removed from the office.

According to the petitioner, the respondent no. 3 had withdrawn an amount of Rs. 1,250/- by cheque which amount was payable to a contractor for some work done by him. Linking the withdrawal with the work done by the contractor, it is alleged that the respondent no. 3 had interest in the work done by that contractor for the Gram Panchayat which is not permissible.

The respondent no. 3 came out with the defence that she had already paid the amount of Rs. 1,250/- to the contractor, and that amount was withdrawn by her. The learned Collector accepted the contention of the petitioner and held that the respondent no. 3 had incurred disqualification under Section 14 (1) (g) of the Act of 1958. The respondent no. 3 had filed appeal against the order of Collector. This appeal is allowed by the Additional Commissioner by the impugned order.

With the assistance of the learned advocates, I have examined the documents placed on record of the petition. I find that the petitioner has not been able to show that the respondent no. 3 had interest in the work allotted to the contractor. Section 14 (1) (g) of the Act of 1958 is attracted if any elected member of the Gram Panchayat is found to have any share or interest in any work done by order of Gram Panchayat, or in any contract with, by or on behalf of the Gram Panchayat. In the present case, the allegations are that the respondent no. 3 has withdrawn the amount of Rs. 1,250/- which was payable to the contractor, and therefore it has to be assumed that she had interest in the work done by that contractor. An elected member cannot be disqualified on such assumption unless the person alleging disqualification proves the fact on the basis of which elected member can be disqualified. There may be some irregularity on the part of the respondent no. 3 in making the payment to the contractor and some rules might have been breached, however, it will not result in disqualification of the respondent no. 3. I find that the learned Additional Commissioner has rightly appreciated the controversy.

I see no reason to interfere with the impugned order.

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

JUDGE

Ansari