

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

WRIT PETITION NO. 4308/2019

Pandit S. Sadar

..VS..

The Hon'ble Minister of State & ors.

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

Court's or Judge's orders

Shri S.D. Chopde, Advocate for the petitioner
Ms. K.R. Deshpande, AGP for the respondent/State

CORAM : Z.A.HAQ, J.

DATED : 26/06/2019

Heard.

The petitioner had filed complaint contending that the respondent no. 10 (elected member of the Gram Panchayat) had encroached on the government land and entry about encroachment by the respondent no. 10 was taken in the records of the Gram Panchayat, and when the illegal act of the respondent no. 10 came to notice, the respondent nos. 6 to 9 and 11 to 13 (Up-Sarpanch and Members of the Gram Panchayat) attempted to protect the respondent no. 10 and his encroachment by taking stand that the respondent no. 10 had not made any encroachment on the government land but the encroachment was by Suresh Kirtane. On the above allegations, the petitioner prayed that the respondent nos. 6 to 13 be disqualified as per Section 14 (1) (j-3) of the Maharashtra Village Panchayats Act. The petitioner contended that after he moved the application seeking disqualification of the respondent nos. 6 to 13, Suresh

Kirtane submitted an application to the Gram Panchayat stating that the entry in the records of the Gram Panchayat that the respondent no. 10 had encroached over the government land was wrong. Suresh Kirtane claimed that the said property belong to him and requested that the entry in the name of the respondent no. 10 be deleted. According to the petitioner, the Gram Panchayat considered the application filed by Suresh Kirtane and allowed his request and this was done only with the intention to protect the respondent no. 10 from disqualification.

With the assistance of the learned advocate for the petitioner and the learned AGP, I have examined the material placed on record of this petition. I find that the petitioner has not been able to point out that the respondent no. 10 encroached over the government land. The petitioner only relied on the entry in the records of the Gram Panchayat, which entry is deleted subsequently. The petitioner could have proved the encroachment by the respondent no. 10 by other evidence. Only because some entry in the records of the Gram Panchayat reflected that the respondent no. 10 had encroached over the government land and then that entry is deleted, it cannot be said that the respondent no. 10 is an encroacher and the respondent nos. 6 to 9 and 11 to 13 have acted illegally to protect him. I find that the learned Commissioner and the Hon'ble Minister have properly appreciated the facts of the case and the controversy, and have rightly dismissed the claim of the petitioner that the respondent nos. 6 to 13 have incurred disqualification and cannot continue as Up-Sarpanch and Members of the Gram Panchayat.

I see no reason to interfere with the impugned orders.

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

JUDGE

Ansari