

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

WRIT PETITION NO. 5593/2019

Kunti M. Chormare & ors.

..VS..

Narayan R. Shinge & ors.

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

Court's or Judge's orders

Shri R.S. Kalangiware, Advocate for the petitioner(s)
Shri V.G. Dhage, Advocate for the respondent no. 1
Shri N.R. Patil, AGP for the respondent/State

CORAM : Z.A.HAQ, J.
DATED : 13/08/2019

Heard.

By the impugned order, the Additional Commissioner has dismissed the appeal filed by the petitioners under Section 16 (2) of the Maharashtra Village Panchayats Act, 1958 and has maintained the order passed by the Additional Collector disqualifying the petitioners under Section 14 (1) (j-3) of the Act of 1958 from continuing as members of the Gram Panchayat. The subordinate authorities have concurrently recorded that the petitioners are residing in the houses constructed by their husband/family members on the government land which falls under the category of “Zudpi Jungle”. According to the petitioners, the houses in which the petitioners are residing are in existence since more than 20 to 25 years and about 213 families are residing in 3.5 HR land, which is treated as encroachment by the authorities.

The learned advocate for the petitioners has pointed out affidavit which was filed by the Tahsildar, Kalmeshwar before this Court in Contempt Petition No. 125/2018 in which it is stated that the process of regularizing the encroachments made by the families residing in the houses constructed in 3.5 HR land was in process. It is submitted that the proposal of the family members of the petitioners for regularization of the encroachments is also under process. In these facts, it is submitted on behalf of the petitioners, that the order disqualifying the petitioners from continuing as members of the Gram Panchayat is illegal and unsustainable in law.

The above submission made on behalf of the petitioners is countered by the learned advocate for the respondent no. 1 and the learned AGP by submitting that though the process for regularization of the encroachments made by the family members of the petitioners is underway, fact remains that on the date of submission of the nomination forms, the orders regularizing the encroachments were not issued and hence, the petitioners incurred disqualification as per Section 14 (1) (j-3) of the Act of 1958. I find substance in the submissions made on behalf of the respondents, and the impugned orders cannot be said to be illegal or unsustainable in law.

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

JUDGE