

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6320/2019

(KALPANA SANJAY GANTIRE & OTHERS **VERSUS** ADDITIONAL COLLECTOR, BULDANA & OTHERS)

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

Court's or Judge's orders

Shri D.I. Jain, counsel for petitioners.
Shri A.V. Palshikar, A.G.P. for R-1 & 4.

CORAM : A.S. CHANDURKAR, J.

DATE : OCTOBER 01, 2019.

The challenge raised in the present writ petition is to the order passed by the Additional Collector on 01.07.2019 by which the application preferred by the petitioners under provisions of Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short, 'the Code') has been rejected.

The respondent no.5 has filed proceedings seeking disqualification of the petitioners herein under the provisions of Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1958 (for short, 'the said Act'). In those proceedings, the petitioners filed the application in question seeking rejection of the proceedings under the provisions of Order VII Rule 11 of the Code. The Additional Collector has observed in the impugned order that the procedure applicable for the proceedings under Section 15 of the said Act cannot be made applicable to summary proceedings under Section 14(1)(j-3) of the said Act. Being aggrieved, the said order has been challenged in the present writ petition.

Heard Shri D.I. Jain, learned counsel for the petitioners and Shri A.V. Palshikar, learned Assistant Government Pleader for the respondent nos.1 and 4. It is not necessary to go into the question whether provisions of Order VII Rule 11 of the Code could be resorted to for seeking dismissal of the proceedings. The proceedings for disqualification under Section 14(1) of the said Act are summary in nature and it is open for the non-applicants in those proceedings to contest the same by raising appropriate defences. Moreover, the burden to prove such disqualification having been incurred is on the original applicant. The petitioners herein seek adjudication that they are not liable to be so disqualified. It is seen that the petitioners have the opportunity to contest the proceedings by raising appropriate defences. In that view of the matter, there is no reason to interfere with the impugned order. The petitioners are granted further time of fifteen days to file their reply to the aforesaid proceedings and raise appropriate defences.

The writ petition stands dismissed. No order as to costs.

All the points raised on merits are kept open.

JUDGE

APTE