

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.379 OF 2019

Balu Jagram Chavan and anr.

-vs-

Satish Baliram Sonone and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. V. Sirpurkar, Advocate with S. R. Agrawal,
Advocate for petitioners.

Shri S. D. Chopde, Advocate for respondent No.1.

Shri A. S. Thotange, Advocate for respondent No.2.

Shri S. B. Bissa, Assistant Government Pleader for
respondent Nos.3 and 4.

CORAM : A.S.CHANDURKAR, J.

DATE : September 30, 2019

The petitioners are aggrieved by the order passed by the Divisional Commissioner upholding their disqualification under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959.

The respondent No.1 herein had sought disqualification of the petitioners who were elected as members of the Gram Panchayat on the grounds they had encroached upon property Nos.289 and 202 situated within the Gram Panchayat. These properties were owned by the State Government. The Collector while considering the said application called for a report from the Secretary of the Gram Panchayat. It was found that in Form-8 with regard to said properties the name of the State Government was shown as the owner. The petitioners did not dispute their occupation thereof and hence on that count it was held that they were disqualified from continuing as members of the Gram Panchayat. The Divisional Commissioner has maintained that

order in appeal.

2. Shri S. V. Sirpurkar, learned counsel for the petitioners submitted that the petitioners were occupying the said land since 1984 and were regularly paying taxes. The petitioners could not be termed as encroachers especially when they were paying taxes regularly. Without considering this aspect both the Authorities committed an error in disqualifying the petitioners.

3. Shri S. D. Chopde, learned counsel for the petitioner No.1 and Shri S. B. Bissa, learned Assistant Government Pleader for respondent Nos.3 and 4 supported the impugned order. According to them the findings recorded by the Authorities were based on documentary material and hence no interference was called for.

4. On hearing the learned counsel for the parties it is seen that Form-8 with regard to property Nos.289 and 202 indicates ownership of the Government over the said land. The petitioners have not been able to produce any document to indicate their legal entitlement to occupy the same. The petitioners have been disqualified by the Collector after considering all relevant material. That material was reappreciated by the Divisional Commissioner thereafter. The factual adjudication is based on material available on record. Hence there is no case made out to interfere in writ jurisdiction.

The Writ Petition is dismissed. No costs.

JUDGE