IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

34 WRIT PETITION NO.1637 OF 2019

1. SOMNATH HARI BHIL
2. JHURKHA USMANKHA PATHAN
3. RAJANI ANANDA DHANGAR
4. VAISHALI SHARAD WAGH
5. ANJANABAI KASHINATH BHIL
6. SAPNA PAWAN PATIL
7. SHAIKH KHALIL SHAIKH LATIF
8. GOVINDA SUKHADEO PATIL … PETITIONERS
(Orig. Appellants)

VERSUS

. THE STATE OF MAHARASHTRA AND Ors. … RESPONDENTS
(Orig. Respondents)

…

Mr. Patil Paresh B., Advocate for Petitioners
Mr. A.B. Chate, AGP for Respondent – State

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CORAM : V. K. JADHAV, J.
DATED : 20th January, 2020

PER COURT :-

1. This writ petition pertains to the disqualification incurred by the petitioners under the provisions of Section 14 (1)(h) of the Maharashtra Village Panchayat Act, 1959. So far as the petitioner nos. 1, 4, 5, 6, 7 and 8 are concerned, it is a part of record that, the petitioner nos. 1, 6, 7 and 8 have failed to pay the taxes within three months from the date on which the amount of such taxes are demanded and bill for the said purpose is duly served on them. So far as the petitioner nos. 4 and 5 are concerned, it is also a part of record that they

have not paid the taxes at all. In view of the above, the petition to the extent of petitioner nos.1, 4 to 8 is hereby dismissed.

2. So far as the petitioner nos. 2 and 3 are concerned, the learned counsel submits that as per chart shown in the enquiry report submitted by the Block Development Officer, Taluka Erandol, District Jalgaon, the petitioner no.2 – Jhurkha Usmankha Pathan was served with the demand notice pertaining to the taxes to the tune of Rs.540/- on 17.10.2016 and he has paid the said amount on 12.01.2017 i.e. within 90 days from the date of service of demand notice. Learned counsel submits that so far as the remaining amount of Rs.1003/- is concerned, the said taxes pertaining to the house owned and possessed by the father of petitioner no.2, who resides separately and the demand notice has also been served on the father of petitioner no.2, separately. The petitioner no.2 is having no concern with the said amount of tax and it has been incorrectly shown in the enquiry report as the property owned by the joint family in the name of petitioner no.2. So far as petitioner no.3 - Rajani Ananda Dhangar is concerned, as per the chart shown in the enquiry report conducted by the said Block Development Officer, the demand notice pertaining to the amount of Rs.3300/- came to be served on petitioner no.3 – Rajani on 17.10.2016 and she

has paid the said tax amount on 12.01.2017 i.e. within 90 days from the date of service of demand notice. However, the said demand notice came to be served on the husband of petitioner no.3. Learned counsel submits that so far as the remaining amount of Rs.23,853/- is concerned, the same pertains to the property standing in the name of father-in-law of petitioner no.3 – Rajani for which she is not responsible. A separate demand notice of the said taxes came to be served on the father-in-law of petitioner no.3. Learned counsel submits the petition may be allowed to the extent of petitioner nos. 2 & 3.

3. Learned AGP submits that both the petitioners have failed to pay the tax amount within 90 days as per the requirement and as such, incurred the disqualification in terms of the provisions of Section 14 (1)(h) of the Maharashtra Village Panchayat Act, 1959. No case is made out. There is no substance in this writ petition. The writ petition is liable to be dismissed.

4. So far as the petitioner nos.2 and 3 are concerned, it appears from the chart prepared by the Inquiry Officer i.e. Block Development Officer, Taluka Erandol, District Jalgaon that in terms of demand notice of tax, they have paid the amount pertaining to the property standing in their names

within 90 days. So far as petitioner no.2 is concerned, a separate demand notice seems to have been served on his father and as such, he has not paid the said amount as per the requirement. *Prima facie* there is no evidence about status of the family as joint. So far as the petitioner no.3 is concerned, the amount pertaining to the property standing in the name of her husband, the tax amount has been paid within 90 days. However, as per the demand notice issued to her father-in-law, the tax amount has not been paid for which she is not responsible. *Prima facie*, there is no evidence about the status of joint family. The notice has been issued separately in the name of father-in-law of petitioner no.3. In view of the same, I proceed to pass the following order:

ORDER

(I) The writ petition is hereby partly allowed.

(II) The writ petition is hereby allowed in terms of prayer clause 'C' to the extent of petitioner no.2 - Jhurkha Usmankha Pathan and petitioner no.3 - Rajani Ananda Dhangar.

(III) The writ petition is accordingly disposed off.

(V. K. JADHAV, J.)

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