IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6833 of 2019

Mr.Thorat Prabhakar Subrao ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

Dr.Uday P. Warunjikar, for the Petitioner.

Mr.C.D.Mali, AGP for the State/Respondent Nos.1 & 2.

Mr.Sandeep M.Phatak, for Respondent no.3.

CORAM : G.S. KULKARNI, J.

DATE : 12th October, 2021

P.C.:

1. Heard Dr.Warunjikar, learned Counsel for the petitioner, Mr.Phatak, learned Counsel for Respondent No.3 and Mr.Mali, learned AGP for State-Respondent nos.1 and 2.

2. Respondent no.3 had contested the Grampanchayat elections of Village Baj, Taluka Jat, District Sangli, held on 16 October 2017. The petitioner complained before the first authority namely the Collector, of respondent No.3 being disqualified on the ground that respondent no.3 was a defaulter within the meaning of the provisions of Section 14(1)(h) of the Maharashtra Village Panchayats Act,1959 (for short '**the Act**'). The Collector dismissed the petitioner's complaint. An appeal was filed by the petitioner against such dismissal before the appellate authority-the Commissioner, who dismissed the petitioner's appeal by the impugned order dated 12 February 2019.

3. At the outset the provision under which the petitioner alleged respondent no.3's disqualification, is required to be noted which read thus:-

> "14. **Disqualifications**.-(1) No person shall be a member of a *panchayat* continue as such, who-
> … .. ..
> (h) fails to pay any tax or fee due to the *panchayat* or the *Zilla Parishad* within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him; or "

4. In asserting that respondent no.3 is a defaulter under the above provision, the petitioner pointed out a certificate dated 29 September 2017 issued by the Gao Kamgar Talathi of Village Baj, Taluka Jat, which according to him, pointed out that the husband of respondent no.3 had to pay an outstanding amount of Rs.3,53,773/- to the State Government. The petitioner also relied upon an order dated 25 April 2016 issued by the Tahasildar, confirming a demand for an amount of Rs.3,53,773/- against the husband of respondent no.3 in regard to the sand excavated by him for which a cheque was deposited by him, however the same was dishonoured. The collector did not accept such contention as urged by the petitioner on the ground that such outstanding could not be considered to be any tax or fees due to the Panchayat or Zilla Parishad and secondly it was also not a demand raised against respondent no.3 but it was against the husband of respondent no.3. Such findings were confirmed by the appellate authority namely the Commissioner who has passed the impugned order dated 12 February 2019 dismissing the petitioner's appeal.

5. Dr.Warunjikar in assailing the concurrent findings of both the authorities against the petitioner has made the following submissions:-

It is submitted that Section 14(1)(h)of the Act when it prescribes payment of tax or tax due to Panchayat or Zilla Parishad needs to be interpreted to include within its ambit also, payment due to the State Government. It is submitted that even payment which was to be made by the husband of respondent no.3 would be required to be read into such payment. As according to him, the Gram Panchayats or Zilla Parishads are routinely receiving funds from the State Government or the Central Government and ultimately once such funds are received from the consolidated fund of either the State or the Central Government, then according to Dr.Warunjikar there is no distinction between any amounts being payable to the State Government and the ones payable to the Panchayat or Zilla Parishad, by such logic any payment due to any State Government is the payment due to Gram Panchayat or Zilla Parishad.

6. I am afraid that such an interpretation of Section 14(1)(h) of the Act cannot be accepted. This would amount to reading something in the said provision what is not provided for. The payment due to the State Government in the present context, cannot be read as the payment due to Grampanchayat or Zilla Parishad. The legislature in framing the provision, has clearly distinguished the payment such as fees or tax payable to Grampanchayat or Zilla Parishad, from any payment to be made to any other Government bodies and to the State or the Central Government by not including the later within the provisions.

7. In regard to the contention that as the amounts are received from the State Government or the Central Government from its consolidated funds by the Grampanchayat and Zilla Parishad, any amount payable to the State Government needs to mean to be an amount payable to Grampanchayat or Zilla Parishad, also cannot be accepted. It would be too far fetched to include such alien attributes to be read in sub-section 1(h) of Section 14 of the Act. The Court would certainly not do anything

to damage the plain and clear language and meaning, the provision depicts. In any event it cannot be overlooked that the amounts which were payable to the State Government were not by respondent no.3 but by her husband which is again a facet falling outside the provisions of Section 14(1)(h) of the Act.

8. For the above reasons, the findings recorded by the Collector and the Appellate Authorities are appropriate. I find no merit in this petition. The petition is dismissed. No costs.

(G.S. KULKARNI, J.)