

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2174 OF 2021 .

Chandrakant Ramkrushna Sangle ..Petitioner

v/s.

Asha Baburao Darade & Ors. ..Respondent/s

Mr. Satyajeet Dighe for the Petitioner/s.

Mr. Sachin Gite for the Respondent.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : 24th AUGUST, 2021.

P.C.

1. Heard. With consent, heard finally at the stage of admission.

2. The Petitioner herein has impugned order dated 18.02.2021, whereby the learned Addl. Collector has kept the Appeal in abeyance until the measurements of the subject land are carried out.

3. The Respondent No.1 has been elected to the post of Sarpanch, Gram panchayat Bokad-Dere for a term commencing

from 2017 to 2022. The Respondent No.2 is elected as a member of the said Panchayat. The Petitioner had filed the Gram Panchayat Dispute Application seeking disqualification of the Respondent on the ground of encroachment over Government Land/ Public land. Upon remand, by order dated 3.9.2019, the Addl. Collector allowed the application and disqualified the Respondent Nos.1 and 2 for the remaining term. In an Appeal filed by the Respondent Nos.1 and 2, the Addl. Commissioner remanded the matter with direction to decide the matter afresh after giving an opportunity to the respective parties to adduce evidence and advance their arguments in support of their respective claims.

4. The impugned Order records that despite opportunities given, both parties have not adduced any evidence and have not taken steps to carry out the measurements and prepare a plan in respect of survey No.168. The ld. Addl. Collector has kept the matter in abeyance on the ground that it is not possible to decide the application till the land under Survey No.168 is measured and plan in respect of the same is prepared.

5. Suffice it to say that disqualification petitions are required to be disposed of within a reasonable period. Keeping disqualification petitions in abeyance for an indefinite period can render such application infructuous, and thus defeat the legislative intent to prevent an encroachment on the Government land/ Public property by a person who is deemed to be a public servant. It would also not be just and reasonable to keep a sword of uncertainty hanging on the head of an elected representative even when the person seeking disqualification on the ground of encroachment is unable to discharge the burden. The disqualification petitions are therefore required to be decided expeditiously.

6. In the instant case the term of the Respondents is for a period of five years i.e. from 2017 to 2022. The disqualification application, which was filed in the year 2017, is pending since last four years and in view of the impugned order is not likely to be decided during the tenure of the Respondents as Sarpanch and Members of the Panchayat. Keeping the application pending without any justifiable reasons defeats the legislative intent. Such

an error can certainly be rectified in writ jurisdiction. Hence, the Petition is allowed. The ipmugned order is set aside. The Addl. Collector is directed to decide the Appeal as expeditiously as possible, and in any event within a period of two months from the date of this Order.

7. Petition stands disposed of accordingly.

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(ANUJA PRABHUDESSAI, J.)