

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1115 OF 2021

Vijay s/o Chima Chavan

Vs.

Additional Commissioner, Amravati Division, Amravati and others

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

Court's or Judge's orders

Mr. A. V. Band, Advocate for petitioner.

Ms. H. N. Jaipurkar, AGP for respondent Nos.1 and 2.

None for respondent No.3.

Mr. Bhaurao Chavan, respondent No.4 – in person.

CORAM : AVINASH G. GHAROTE, J.

DATE : 16/11/2021

Heard Mr. Band, learned counsel for the petitioner, Ms. Jaipurkar, learned AGP for respondent Nos.1 and 2 and Mr. Chavan, respondent No.4 in person. None appears for respondent No.3 though served.

2. The petition challenges the order dated 14.10.2020 passed by the respondent No.2 holding that the petitioner is disqualified from the post of Sarpanch and Member of Gram Panchayat, Mandva, Tahsil Risod, District Washim, under Section 14(1)(g) of the Maharashtra Village Panchayats Act (hereinafter be referred to as 'MVP Act'). The learned counsel for the petitioner by inviting my attention to the impugned order submits that there is no reason whatsoever given by the respondent No.2 to arrive at a conclusion that the disqualification under Section 14(1)(g) of MVP Act has been incurred except stating that the petitioner had not

given any explanation. He therefore, submits that the impugned order cannot be sustained on this ground.

3. Learned AGP though tries to support the impugned order, when a pertinent question was put to her for pointing out the reasons in the impugned order, she is unable to do so.

4. The respondent No.4 in person merely relies upon the non-submission of explanation as recorded by the respondent No.2 in the impugned order.

5. It is pertinent to note that as a consequence to the complaint filed by the respondent No.4, the petitioner in his written statement in para 3 had made categorical statement that the petitioner and his brother Bhanudas Chima Chavan were separated since 2015 in all respects, which separation was duly recorded by the concerned Talathi in his mutation entry dated 08.04.2015, considering which position and statement, it was necessary for respondent No.2 to have considered this position and recorded reasons for arriving at a conclusion that a disqualification had been incurred by the petitioner under Section 14(1)(g) of the MVP Act. Since Section 14(1)(g) of the MVP Act mandates disqualification of a Sarpanch or Member for having directly or indirectly, by himself or by his partner, any share or interest in any work done by order of the Panchayat, or in any contract with, by or on behalf of, or employment with or under, the Panchayat a specific

finding in that regard is necessary to be recorded with reasons specifying the nexus of the Members / Sarpanch with the action alleged, so as to incur the disqualification, in absence of such reasons, the disqualification cannot be said to have been incurred merely on the ground that no explanation was given, when the explanation given by way of reply was not even adverted to, nor considered by the learned respondent No.2 while passing the impugned order. The same is the position as spelt out from the order of the learned respondent No.1 dated 01.02.2021, who has merely toed the line taken by the respondent No.2. That being the position, the impugned order cannot be sustained. The same is hereby quashed and set aside.

6. The matter is remanded back to the learned respondent No.2 – The Collector, Washim, who shall pass a reasoned order taking into consideration the reply submitted by the petitioner.

7. The parties are directed to appear before the respondent No.2, on 26.11.2021 at 11.00 a.m.

8. The respondent No.2 shall decide the matter afresh by recording proper reasons by considering all the ground within a period of 15 days therefrom.

JUDGE