

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

WRIT PETITION NO. 5352/2021

Manohar Haribhau Atram

...Versus...

State of Maharashtra and ors

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

Court's or Judge's orders

Mr. A.D.Ramteke, Advocate for petitioner
Ms. T. Khan, AGP for Respondent Nos. 1 to 3

CORAM : AVINASH G. GHAROTE, J.

DATE : 20/12/2021

Heard learned counsel for the petitioner.

The impugned order dated 09.08.2021, passed by Respondent No.1, which refuses to grant stay to the order of the Additional Collector/Respondent No.2, which holds that the petitioner has committed an encroachment on Government Land and therefore has incurred a disqualification under Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, is under challenge.

Mr. Ramteke, learned counsel for the petitioner submits that the factum of encroachment has not been established and the inspection was done behind his back, due to which the Respondent No.2 could not have passed the order holding existence of encroachment by the petitioner. He further submits that Respondent No.1 ought to have considered this position and granted stay.

A perusal of the spot inspection report (page 24) indicates that the petitioner has encroached upon land admeasuring 1.71 hectares from and out of the land of Survey No. 58, and entry in respect of which has been recorded in the relevant record of Form 1-E since 1982-83, considering which the petitioner cannot be considered to be oblivious of the same. Mr. Ramteke, learned counsel for the petitioner submits that in the year 2011 itself, an application for regularization of this encroachment has been filed before the concerned authorities, which is still pending. In my considered opinion, this statement clinches the issue and therefore, I do not find any merit in the petition, the same is accordingly dismissed.

JUDGE

rvjalit