

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11713 OF 2021

**GANGABAI BABURAO BADBADE
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER AND OTHERS**

...
Advocate for Petitioner : Mr. U. B. Deshmukh
AGP for Respondents – State : Mr. Y. G. Gujrathi
Advocate for Respondent No.5 : Mr. R. B. Dhaware
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th JULY, 2022

PER COURT :

1. By this petition filed under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the order of disqualification passed by the Collector, Nanded under Section 14(1)(g) of the Maharashtra Village Panchayat Act, 1958 (for short 'the said Act'). The said disqualification order is confirmed by the Additional Divisional Commissioner, Aurangabad in appeal.

2. The petitioner was directly elected as Sarpanch in the elections held in the year 2017. By filing dispute No. 2021/GB /Desk/1/GPN/Appeal/CR-78 respondent No.5 sought disqualification of petitioner under Section 14(1)(g) of the said Act, contending that the petitioner's son namely Balaji has withdrawn lakhs of rupees from the Village Panchayat's account by taking advantage of the fact that his mother/petitioner is a Sarpanch. In support of this

contention bank account statements of Gram Panchayat were filed along with dispute.

On filing of the dispute, Collector directed the Extension Officer to conduct inquiry and submit report. Extension Officer submitted report thereby giving description of withdrawal of amounts by petitioner's son from time to time. He stated that the allegations made in the dispute are correct.

3. After hearing the parties, the Collector disqualified petitioner holding that the petitioner had direct interest in the financial transactions of Gram Panchayat. The petitioner unsuccessfully challenged the order passed by Collector by filing appeal before the Commissioner. Hence, the present petition.

4. Heard Mr. U. B. Deshmukh, learned advocate for petitioner and Mr. R. B. Dhaware, learned advocate for respondent No.5 and the learned Assistant Government Pleader for respondents – State.

5. Learned advocate for petitioner by relying on *Sou. Jyotitai Vikas Gawande Vs. Additional Commissioner, Amravati Division, Amravati and Others, 2009(5) Mh.L.J. 486* and unreported decision of this Court in *Writ Petition No.691/2011*, has strenuously urged that the Collector was not justified in passing the impugned

order, as there is no evidence on record that the petitioner had any share or interest in the said transactions. Only because the amount of cheque was withdrawn by son of the petitioner, that by itself is not sufficient to infer such share or interest. He, therefore, submits that the impugned disqualification order and the order passed by the Additional Divisional Commissioner in appeal are liable to be quashed and set aside.

6. Learned advocate for respondent No.5 supported the impugned order. He submitted that documents placed on record in the form of account statements of Village Panchayat, prove that petitioner's son has withdrawn lakhs of rupees from the said account and therefore, there is sufficient material on record to show that the petitioner has direct interest in the financial transaction of the Village Panchayat. Therefore, the petitioner is rightly disqualified.

7. Learned Assistant Government Pleader for State has also supported the disqualification order and the order passed by Commissioner.

8. Record reveals that petitioner's son has withdrawn lakhs of rupees from time to time from the Village Panchayat's account. There is sufficient material on record to show that the petitioner

had direct interest in the financial transactions of Village Panchayat. Report filed by the Extension Officer also supports the allegation made by respondent No.5 in the dispute. Withdrawal of amounts from Gram Panchayat's account by the petitioner's son, is proved from report of the Extension Officer as well as from bank account statements. In this view of the matter, this Court is of the considered view that the Collector has rightly disqualified the petitioner.

9. In *Writ Petition No.691/2011*, this Court was considering a case wherein the alleged relationship of the petitioner with respondent No.3 was not established. In the case in hand, relationship of petitioner with her son Balaji is not in dispute. Therefore, this judgment would not help the case of the petitioner.

10. In *Sou. Jyotitai Vikas Gawande* (supra) this Court was considering a case wherein there was no material in the complaint sufficient to attract the said disqualification. This Court was of the view that the reasons recorded by the Additional Collector and Additional Commissioner in the impugned order were too general in nature. They did not state any specific allegation made by the complainant or refer the evidence adduced by the complainant in that behalf and the allegations were not substantiated. This Court has also observed that, fresh case for disqualification of the

petitioner in respect of allegations of the action of the husband in the work done by Raju Wardhe, Gajanan Building Suppliers, cannot be allowed to be made out at this stage in that petition.

11. In the case in hand, there is sufficient material in the form of documents placed on record to substantiate the allegations made in the dispute. Hence, this ruling does not assist the petitioner.

12. For the aforestated reasons, there is no merit in the present petition and no case is made out by the petitioner to warrant exercise of extraordinary jurisdiction. Writ petition is, therefore, dismissed. No costs.

(NITIN B. SURYAWANSHI, J.)