

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 6263 OF 2021

Sagar Dattu Sawant

...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr. Nagesh Chavan, for the Petitioner.

Mr. S. L. Babar, AGP for the Respondent / State.

Mr. Nikhil Pawar, for the Respondent No.5.

Ms. Tejal Rasal i/b. Mr. Prajakt M. Arjunwadkar, for the
Respondent Nos.6 & 7.

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CORAM : PRASANNA B. VARALE AND
SHRIKANT D. KULKARNI, JJ.

DATE : 5 JULY 2022

P.C.

. Heard the learned counsel for the Petitioner. Perused the orders passed by this Court as well as the principal prayer made in the petition in prayer clause (b). The said prayer reads thus-

(b) This Hon'ble Court be pleased to issue the writ of mandamus or certiorari or any other appropriate writ / direction / order in the nature of writ of mandamus or certiorari under Article 226 of

the Constitution of India, 1950, direct the Respondent Nos.1 to 4 to hold and declare that the Respondent Nos.6 & 7 are disqualified under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act for the post of members of the Respondent No.5 Village Panchayat, Kalamb.

2. By order dated 4 October 2021, certain observations were made by this Court and by order dated 14 October 2021 due to non appearance of Respondent Nos.6 & 7 inspite of service of the notice, an interim order was passed by this Court. Interim order was continued on the subsequent dates when the petition was listed before this Court.

3. The learned counsel for the Petitioner, on instructions, submits that as the Petitioner is seeking disqualification of Respondent Nos.6 & 7 and as there is an efficacious remedy available to the Petitioner to approach the Competent Authority in view of provisions of law, the Petitioner be permitted to withdraw the present petition with liberty to approach the Competent Authority by filing necessary proceedings. The learned counsel further submits that as the Petitioner had approached this Court under a bonafide belief, the Competent Authority be directed to consider this aspect of the matter so as to consider the delay caused in approaching the Competent

Authority. The learned counsel for the Petitioner further submits that the Petitioner would present the proceedings before the Competent Authority alongwith an application for interim order and the Competent Authority be directed to decide the application expeditiously or within stipulated time frame. The learned counsel for the Petitioner further submits that till the Competent Authority decides the application, the interim order granted in favour of the Petitioner be continued.

4. Considering the fact that the Petitioner is availing an efficacious remedy under the provisions of law, on instructions, learned counsel for the Petitioner is allowed to withdraw the petition. The Competent Authority before whom the necessary proceedings would be filed while considering the aspect of delay, shall consider the fact that the Petitioner was before this Court by presenting writ petition under bonafide belief.

5. The interim order granted by this Court on 14 October 2021 to continue for a period of four weeks from today.

6. Needless to state that the Authority before whom the Petitioner would present the proceedings alongwith application for grant of interim order to consider the application and pass appropriate orders by giving an equal opportunity of hearing to the parties within four weeks from today.

7. With these above referred directions, the petition is disposed of. Needless to state that the contentions raised in the petition are kept open.

(SHRIKANT D. KULKARNI, J.)

(PRASANNA B. VARALE, J.)