

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

WRIT PETITION NO.486 OF 2022

Nandini w/o Nandkishor @ Netrapal
Ambedare, Aged about 40 yrs.,
Occ. Sarpanch, R/o Majitpur,
Post-Gangazari,
Tah. & Dist. Gondia.

..... **PETITIONER**

...V E R S U S...

1. The Additional Commissioner,
Nagpur Division Commssioner Office
Compound, Civil Lines, Nagpur.
2. The Additional Collector Gondia,
Collector Office Compound Gondia,
Tah. & Dist. Gondia.
3. Ranjana w/o Ramesh Patle,
Aged about 43 years,
Occ: Labour, R/o Majitpur,
Post-Gangazari,
Tah. & Dist. Gondia.
4. Gram Panchayat Majitpur through its
Secretary, Tah. & Dist. Gondia.
5. Talathi, T. S. No. 3 Mouza-Majitpur,
Tah. & Dist. Gondia.

..... **RESPONDENTS**

Mr. A. M. Gedam, Advocate for Petitioner.
Ms. T. H. Khan, AGP for Respondents 1 & 2/State.
Mr. P. V. Thakare, Advocate for Respondent 3.

CORAM: **ROHIT B. DEO, J.**
DATE: **16th MARCH, 2022.**

ORAL JUDGMENT:

The petitioner is the elected Sarpanch of village Gram Panchayat Majitpur.

2. Respondent 3 Smt. Ranjana Patle preferred an application under Section 14 (1)(j-3) of the Maharashtra Village Panchayats Act, 1958 (Act) seeking the petitioner's disqualification on the premise that her husband encroached on government land admeasuring 0.01 HR which form portion of Gat 229 admeasuring 2.36 HR.

3. The Collector, Gondia has allowed the application noting that the Talathi submitted report to the effect that the consolidation record pertaining to 1972 – 1992 reveals that the husband of the petitioner has encroached on 0.01 HR land from Gat 229 and that such an entry or endorsement is duly taken in the encroachment register. In the same breadth the Collector notes the further statement in the report of the Talathi that as regards Mouza Majitpur the record of the re-survey is maintained only from 1992-93 and government land is not assigned survey number.

4. I find from the order of the Collector that apart from

making a reference to the report of the Talathi there is absolutely nothing which can be remotely construed as reason for the conclusion reached. The Collector made a copious reference to several decisions and then ended the order with the declaration of disqualification. All that is observed by the Collector after referring to the decisions is that from the articulation it is clear that the Sarpanch is liable to be disqualified.

5. The Commissioner ought to have interfered. He ought to have been sensitive to the importance of the issue. The Commissioner, however, did not interfere and rested by again relying on the report of the Talathi. The Collector and the Commissioner both were not alive to the well settled principle that reasons furnish the link between the material on record and the conclusion and assure the litigant that he is treated fairly. Recording of reasons is a facet of the principles of natural justice. While the reasons may not necessarily be elaborate, the same cannot be too laconic either.

6. The learned counsel for the petitioner has invited my attention to 7/12 extracts which reveals that at least some portion of Gat 229 is privately owned. Since I am inclined to remit the

matter to the Collector, I need not make any decisive observation. However, if the document to which my attention is drawn is not before the Collector, the petitioner shall place the same, along with any other relevant material, and the Collector shall apply independent mind to the contention of the Sarpanch that the residential house is not as a fact constructed by her husband on government land. If need be, a spot inspection shall be conducted with due prior notice to the stake holders.

7. The orders impugned are set aside and the matter is remitted to the Collector for fresh decision after giving the parties sufficient opportunity to place on record further and additional material.

8. The parties shall appear before the Collector, Gondia on 22.03.2022.

9. No separate notice shall be necessary.

10. The petition is allowed in the aforestated terms.