

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

WRIT PETITION NO. 844 OF 2022

Shri Satish s/o Manik Pawar,
Aged about 35 years, Occ. - Member,
R/o Anji (Mothi), Tahsil and District
Wardha.

.... **PETITIONER**

VERSUS

- 1) The Additional Commissioner,
Nagpur Division, Nagpur, Old
Secretariate Building, Civil Lines,
Nagpur.
- 2) The Collector, Wardha,
Collector Office Compound,
Civil Lines, Wardha.
- 3) The Block Development Officer,
Panchayat Samiti, Wardha,
District Wardha.
- 4) The Gram Panchayat, Anji (Mothi)
through its Secretary, Anji (Mothi),
Tahsil and District Wardha.
- 5) The Assistant Engineer, Grade-I,
National Highway Authority,
Sub-Division, Wardha.
- 6) Shri Jagdish Mannalalji Sancheria,
Aged about 5 years, Occ. - Cultivator,
R/o Anji (Mothi), Tahsil and District
Wardha.

.... **RESPONDENTS**

Mr. A. Sambary, Counsel for the petitioner,

Mr. N.R. Rode, A.G.P for respondents 1 and 2,
Mr. Nandesh Deshpande, ASGI for respondent 5
Mr. R.V. Gahilot, Counsel for respondent 6.

CORAM : ROHIT B. DEO, J.
DATED : 14th MARCH, 2022

ORAL JUDGMENT :

Heard. **Rule.** Rule made returnable forthwith. With consent, the petition is heard finally.

2. The petitioner was elected as Member of Gram-Panchayat, Anji (Mothi) in the year 2019.

3. Respondent 6 preferred application under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act seeking disqualification of the petitioner on the premise that the petitioner has made encroachment and illegal construction on Government land, to be precise on the right side portion of National Highway 647. Respondent 6 referred to notice dated 24-1-2020 issued by the National High Authority to the petitioner.

4. The Collector rejected the application only on the ground that according to the National Highway Authority, the petitioner has removed the illegal construction. In paragraph 4 of the order of the

Collector the reference is to the reply submitted by the National Highway Authority which is to the effect that pursuant to the notice issued, the petitioner has removed the encroachment at his costs.

5. The appeal preferred by respondent 6 is allowed by the Commissioner, who rightly held that the relevant date would be the date of submission of the nomination form. The Commissioner allowed the appeal and held the petitioner disqualified on the premise that the illegal construction is removed only after 31-10-2020 while the nomination form was submitted on 09-3-2019.

6. The focus of the submission canvassed by the learned Counsel for the petitioner Mr. A. Sambary is that the petitioner is a tenant and the block in question belongs to a co-operative society, and therefore, the petitioner cannot be held responsible for the alleged encroachment. I am afraid, such a stand is not available to the petitioner since the Collector was of the view that the petitioner had removed the illegal construction/encroachment at his costs. The Collector proceeded on the premise and indeed the factual assumption that while there was an encroachment, the same stands removed by the petitioner. The factual assumption or premise or finding is not assailed by the petitioner. The petitioner took advantage of such premise and it is only after the

Commissioner has rightly observed that the removal of the encroachment at a belated stage is irrelevant, that the petitioner appears to be focusing on the submission that the encroachment, if any, is committed by the co-operative society and not by the petitioner.

7. In any event, a reasonable view is taken. In writ jurisdiction, I am not inclined to interfere with the findings rendered on factual aspects.

8. The petition is dismissed.

JUDGE

adgokar