

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

WRIT PETITION NO. 1800 OF 2022

Satish Shyamrao Gawande, age 46,
Occ. Agriculture, R/o Golegaon,
Post – Shivar, Tq. Daryapur, Dist.
Amravati.

.... **PETITIONER**

// VERSUS //

1. Sau. Bharti Vikram Deshmukh, age 39 years, Occ. : Household/Sarpancha, R/o Soundali (Hirapur) Post : Dhamodi, Tq. Daryapur, Distt. Amravati.
2. Secretary, Grampanchayat, Golegaon, Post Shivar, Tq. Daryapur, Distt. Amravati.
3. Additional Commissioner, Amravati Division, Amravati.
4. Additional Collector, Amravati Division, Amravati.

.... **RESPONDENTS**

Shri K.P. Mahalle, Advocate for the petitioner.
Shri Rode, A.G.P. for respondent nos. 3 and 4.

CORAM : ROHIT B. DEO, J.
DATED : 05.04.2022

ORAL JUDGMENT :

Heard. **RULE.** Notice to private respondents is dispensed with.

With consent, the petition is heard finally.

2. The petitioner has preferred an application under Section 14(1) (h) of the Maharashtra Village Panchayat Act, 1958 ('the Act'), seeking disqualification of Smt. Bharti Deshmukh, who is the elected Sarpanch of Gram Panchayat, Golegaon.

3. The petitioner contended that Smt. Bharti Deshmukh and her husband Mr. Vikram, are the joint owners of residential property assigned property no. 66.

4. The petitioner then contended that on 02.06.2019, the demand bill in connection with the Tax, was served on the father-in-law of Smt. Bharti Deshmukh.

5. Since the Tax was not paid, the Secretary of the Gram Panchayat served demand bill dated 02.10.2019, which again was served on the father-in-law of the Sarpanch. The petitioner then referred to the adjourned monthly meeting of the Gram Panchayat, which was held on 28.02.2020, which resolved that the office bearers shall pay the arrears before March. The next reference is to the meeting, which was held on 18.03.2020 and particularly, to subject 8, which was according to the petitioner, instructs the Member and the Sarpanch, to clear the arrears.

6. Smt. Bharti Deshmukh filed written statement out-rightly denying that the bill was duly served. She further denied the signature allegedly put by her father-in-law Shri Ajabrao Deshmukh. She denied the proceedings to which the petitioner referred. In the specific submission, she alleged that the application was motivated. Smt. Bharti Deshmukh reiterated that the bills concerned were not served on her father-in-law. She further contended that, in any event, she and her husband are residing separate from her father-in-law since 2020 in different residential houses and she does not reside in joint family, of which her father-in-law is a member.

7. The Collector disqualified Smt. Bharti Deshmukh vide order dated 23.08.2021 entirely relying on the report of the Secretary. In the passing, the Collector made a reference to the submission of the petitioner, which pressed in service the proceedings of the meeting of the Gram Panchayat. While the Collector concludes that Smt. Bharti Deshmukh and her father-in-law constitute joint family, as is discernible from paragraph 5 of the order of the Collector, there is absolutely no reason recorded for arriving at such conclusion.

8. Smt. Bharti Deshmukh preferred an appeal, which the Additional Commissioner, Amravati Division has allowed the order impugned. The Appellate Authority has allowed the appeal primarily on the premise that the bills have not been served in accordance with the provisions

of Section 129 of the Act. It appears that even the Appellate Authority has not discussed the relevant issues elaborately.

9. I have independently considered the material placed on the record along with the petition and having done so, it is difficult to disagree with the ultimate conclusion reach by the Commissioner. I have perused the evidence of the Secretary. The Secretary who allegedly served the bills, is not examined on the premise that he is transferred. The bills do not bear any date from which an inference can be drawn that the service was effected on any particular date. Since the person who has served the bills is not examined, the drastic action of disqualification cannot be initiated on the basis of material which is essentially fragile in nature. This aspect apart, there does not appear to be any material rebutting the contention of Smt. Bharti Deshmukh that service on her father-in-law is not good service since she and her husband are residing separately since 2010.

10. In any event, in exercise of writ jurisdiction, it would not be appropriate to interfere with findings of fact, particularly, since there is no apparent perversity demonstrated.

11. The petition is dismissed.