

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

WRIT PETITION NO. 2700 OF 2021

1) Sau. Varsha w/o Sanjay Ghodke,
Sarpanch, Grampanchayat, Sawangi
Mohadi, Aged about 46 years,
Occupation – Household.

2) Dinkar s/o Omkar Wagh,
Deputy-Sarpanch, GramPanchayat,
Sawangi Mohadi, Age 58 years,
Occupation – Agriculturist,
R/o Sawangi Mohadi, Post- Sukoda,
Taluka & District Akola,

.... **PETITIONERS**

VERSUS

1) Divisional Commissioner,
Amravati Division, Amravati.

2) The Collector,
Office of the Collector, Akola,
District – Akola.

3) Secretary, Grampanchayat,
Sawangi Mohadi,
R/o Sawangi Mohadi, Post – Sukoda,
Taluka & District Akola.

4) Vijay s/o Sheshrao Dahake,
Age 47 years,
Occupation – Agriculturist,
R/o Sawangi Mohadi, Post – Sukoda,
Taluka & District – Akola.

.... **RESPONDENTS**

Mr. Mahesh Rai, Counsel for the petitioners,
Mr. S.M. Ukey, Addl.G.P for respondents 1 and 2,
Mr. U.J. Deshpande, Counsel for respondent 4.

CORAM : ROHIT B. DEO, J.
DATED : 13th JANUARY, 2022

ORAL JUDGMENT :

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

2. The petitioners are the *Sarpanch* and *Up-Sarpanch* respectively of Gram-Panchayat Sawangi Mohadi, who are held disqualified to continue as such, in view of the provisions of Section 14(1)(j-5) and Section 16 of the Maharashtra Village Panchayats Act, 1959 (Act).

3. The election was held in October 2017, with the result that the amended provisions of Section 14(1)(j-5) of the Act would apply. The said provision reads thus :

“14(1)(j-5) fails to submit a certificate of the concerned panchayat, alongwith the resolution of the Gram Sabha or of the Chief Executive Officer or an officer designated by him; or a self certificate, certifying that,-

- (i) he resides in a house owned by him and has a toilet in such house and he regularly uses such toilet; or*
- (ii) he resides in a house not owned by him and has a toilet in such house and he regularly uses it or he has no such toilet but regularly uses the public toilet:*

Provided that, no member of a panchayat shall be qualified under this clause, if he submits such certificate to the Block Development Officer, within a period of one year from

the 10th January, 2011, being the date of commencement of the Bombay Village Panchayats and Maharashtra Zilla Parishads and Panchayat Samitis (Second Amendment) Act, 2010 (Mah. XXXIII of 2010)

Provided further that, nothing contained in this clause shall affect the member holding office on the 10th January, 2011 who has not submitted the certificate within a period of ninety days from the said date, as required under the provisions of this Act, as amended by the Bombay Village Panchayats and Maharashtra Zilla Parishads and Panchayat Samitis (Second Amendment) Act, 2010 (Mah. XXXII of 2010); and he shall not be deemed to be disqualified and shall continue to hold his office for a period of one year from the said date, unless he is disqualified under any other provisions of this Act or any other law for the time being in force: or)."

4. The Collector, Akola decided an application preferred by Mr. Vijay Sheshrao Dahake-respondent 4 vide order dated 08-3-2021 and was pleased to disqualify the petitioners to hold the office of *Sarpanch* and *Up-Sarpanch* respectively.

5. The stand of the petitioners, as is discernible from record, was that while submitting the nomination forms, the Resolution dated 01-5-2017 passed by the Gram-Sabha was annexed. The further submission of the petitioners was that the election officer informed the petitioners that resolution of Gram-Sabha is not necessary and therefore, the petitioners annexed the certificate issued by the Secretary, Gram-Panchayat, Sawangi Mohadi.

6. The Collector and the appellate authority-the Divisional Commissioner have recorded a finding of fact, and which finding is consistent with record, that the nomination form was not accompanied either by the Resolution of the Gram-Sabha or then the other certificates which are referred to in the amended provision.

7. I do not see any error in the concurrent view taken.

8. The petition is dismissed.

JUDGE

adgokar