

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

WRIT PETITION NO. 5610/2022

[MRS. KIRAN W/O SACHIN NAGRARE ..VS.. THE STATE OF MAHARASHTRA AND ORS.]

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.S. Kinkhede, Advocate for the petitioner

Mr. N.R. Patil, Assistant Government Pleader for respondent nos.
1 and 2

CORAM : MANISH PITALE, J.

DATED : 13/09/2022

Heard the learned Counsel for the petitioner.

2. By this writ petition, the petitioner has challenged an order dated 29.08.2022 passed by respondent no. 2-Collector disqualifying the petitioner from the elected office of Sarpanch of Gram Panchayat, Panjari (Bu), Nagpur under Section 14(a)(j-3) of the Maharashtra Village Panchayats Act, 1959 (for short the "Act of 1959") for having encroached on Government land.

3. The learned Counsel for the petitioner submits that there is grave urgency in the matter and the petitioner has a strong case on merits, which he sought to urge under writ jurisdiction.

4. But, perusal of Section 16(2) of the Act of 1959 would show that any person aggrieved by such order of the Collector can file appeal before the Commissioner and the order passed by the Commissioner in appeal shall be

final. This Court does not find any extra-ordinary circumstance to entertain the present writ petition filed directly against the order passed by the Collector. Therefore, the writ petition is dismissed on the ground of availability of alternative efficacious remedy of filing an appeal under Section 16(2) of the Act of 1959.

5. In so far as urgency in the matter is concerned, this Court is of the opinion that if the petitioner approaches the Commissioner by filing an appeal under Section 16(2) of the Act of 1959, at the earliest, the Commissioner shall take up the appeal for consideration forthwith.

6. The Commissioner shall take into account the filing of the present writ petition before this Court while considering the time period within which the petitioner is supposed to file the appeal in terms of the provisions of the Act of 1959.

JUDGE

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