

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

51 WRIT PETITION NO.943 OF 2022

SHOBHABAI W/O BHIMRAO AHIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. S. S. Thombre h/f Mr. Karad Murlidhar S.
AGP for Respondents-State : Mr. K. B. Jadhavar
Advocate for Respondent No.10 : Mr D. K. Rajput
Advocate for Respondent Nos.7 to 9 : Mr. C. D. Biradar
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CORAM : ARUN R. PEDNEKER, J.

Date of Reserving the Order : 27/02/2023

Date of Pronouncing the Order : 06/03/2023

ORDER :

1. By the present writ petition the petitioner is challenging the validity of the order dated 05/01/2022, passed by the Additional Divisional Commissioner, Aurangabad rejecting the appeal filed by the petitioner against the order of disqualification dated 28/10/2021, passed by the District Collector, Aurangabad for holding the post of member of the Grampanchayat, Nagad, Taluka Kannad, District Aurangabad.

2. In the identical facts, today I have passed an order in Writ Petition No. 942/2022, wherein the construction on encroached land was under Indira Awas Yojna. I have remanded the matter back to the

Collector to consider the issue that after the allotment of the land under Indira Awas Yojna, whether the land would continues to be encroached land. In view of the aforesaid order passed by me, similar order is passed in the present matter also.

3. In view of the same, the impugned orders dated 05/01/2022 passed by the Additional Divisional Commissioner, Aurangabad and order dated 28/10/2021 passed by the District Collector, Aurangabad are quashed and set aside. The matter is remitted back to the Collector to render findings as to the nature of the possession of the petitioner, qua the alleged encroached land. The Collector to examine the aspect of construction under the Indira Awas Yojna on the encroached land and only after holding that the land continues to be a government land and the petitioner's possession (if any) over the government land is in a nature of an encroachment then the petitioner can be disqualified.

4. Writ petition is partly allowed with above direction.

(ARUN R. PEDNEKER, J.)

5. At this juncture, the learned counsel appearing for the respondent submits that the Collector be directed to decide the proceedings as expeditiously as possible and in any event within a

period of two (02) months from today.

6. The parties are directed to appear before the Collector on 21.03.2023. The Collector to decide the proceedings within two (02) months thereafter.

(ARUN R. PEDNEKER, J.)

vj gawade/-.