

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4184 OF 2022

Kalpana Shridhar Kamble

... **Petitioner**

Versus

State of Maharashtra & Ors.

... **Respondents**

...

Mr. Mahesh K. Bhosale – Advocate for petitioner

Mr. K. B. Jadhavar – AGP for respondent/State

....

CORAM : KISHORE C. SANT, J.

DATE : 31ST JULY, 2023

PER COURT :

1. By this petition, the petitioner assails an order dated dated 15.12.2021 passed by the Additional Divisional Commissioner, Aurangabad, confirming the order passed by the Collector dismissing the application filed by him seeking disqualification of respondent no. 10, who is elected as Sarpanch from village Pimpalgaon (Thombre), Tal. Parbhani, Dist. Parbhani.

2. Learned counsel for the petitioner submits that during the pendency of the appeal before the Additional Divisional Commissioner, Aurangabad, the third alleged child took admission in

the school and entry to that effect is also made in the school record. Petitioner further submits that in spite of trying his level best to get the record of alleged third child of respondent no. 3, he could not get the same as the Gramsevak and the Anganwadi Sevika have stated that there is no record available of third child of the respondent no. 10. He further submits that, during the pendency of the appeal he also tried to get information about the child under Right to Information Act, but the school authorities did not provide him the requisite information since it was not in the public nature. The petitioner alleges that the authorities are not providing him the required information.

3. In view of above, this Court find that when there was no evidence available to hold against the respondent no. 10, no fault can be found with the judgment and order impugned in this petition. Learned counsel for the petitioner submits that there is no question of *res judicata* and prays for withdrawal of the petition with liberty to approach the concerned authority. The learned counsel for the petitioner, however, submits that now he can certainly produce the evidence before the authority.

4. Leave granted. **Petition stands disposed of as withdrawn with liberty as prayed for.** It is made clear that all the points are kept open for the petitioner to agitate before the said authority.

5. Petitioner is at liberty to take steps as available under law.

[KISHORE C. SANT]
JUDGE