

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 WRIT PETITION NO.5482 OF 2022

PARVATI LAXMAN WAGHMARE
VERSUS
VIMALBAI RAOSAHEB POHARE AND OTHERS

...

Advocate for Petitioner : Mr. Khande Avinash A
AGP for Respondents-State : Mr. K. B. Jadhavar
Advocate for Respondent Nos.1 and 2 : Mr. Shahaji Ghatol Patil h/f
Mr. G. R. Jadhav

...

CORAM : ARUN R. PEDNEKER, J.
DATE : 19th April, 2023

PER COURT :

1. Heard the learned Advocate for the petitioner. The petitioner is a widow and elected as a member of Village Panchayat Wadwana/Khadki, Taluka and District Nanded. After the elections a dispute was filed before the Collector that the petitioner does not have a toilet in her place of residence and that she be disqualified under the provisions of Section 14 (i) (j-5) of the Maharashtra Village Panchayat Act, 1958.
2. The petitioner, before the elections, being a widow, was staying with her parents and she had contested the elections in the same village where parents' house is situated. She has given the resolution of the Gramsabha, so also proof that she has a toilet in the house in

which she is residing. However, based on a report prepared by the Block Development officer, photographs were taken and video shoots were taken. The Block Development Officer submitted a report to the Collector mentioning that there was a toilet in the house where the petitioner was residing. However, a video shooting, photograph dated 13/09/2021 was taken of the house of the petitioner where she resides and filed before the Collector mentioning that the house of the petitioner does not have a toilet. Based on video shoots, the Collector has disqualified the petitioner for not having toilet in the house. The video shoot was not given to the petitioner to rebut. Although there is an evidence of the panchayat resolution and also the report of the Block Development Officer, that there is a toilet in the house, the video shoot and photographs produced before the Collector were not permitted to be rebutted by the petitioner. No opportunity is given to the petitioner to oppose the evidence produced against the petitioner.

3. In view of the same, the orders passed by the Collector and the Appellate Authority are set aside and the matter is remitted back to the Collector.

4. The parties are permitted to file evidence as that may be required. Opportunity be given to all the parties to rebut the evidence produced and the Collector to decide the application of disqualification after giving opportunity of hearing to all the parties. The collector to decide the remanded matter as expeditiously as possible.

5. In view of the above, the writ petition is disposed of, with above directions.

(ARUN R. PEDNEKER, J.)

vj gawade/-.