

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

903 WRIT PETITION NO.6540 OF 2023

**NAVALSINGH GANPAT CHAVAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR AND
OTHERS**

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Advocate for Petitioner : Mr.Fulfagar Anuj Ajay
AGP for Respondent No. 1 & 2 State : Mr. S.B.Pulkundwar
Advocate for Respondent No. 3 : Mr. S.P. Rathod

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CORAM : KISHORE C. SANT, J.

DATE : 22.06.2023.

PER COURT :

1. Heard the learned Advocate for the parties for sometime.

2. At the outset, the learned Advocate for the petitioner seeks leave for deletion of respondent No. 4, being a formal party. The leave is granted. Amendment be carried out forthwith.

3. The petitioner has assailed the order passed by the learned Divisional Commissioner, Nashik in Grampanchyat

Appeal bearing No. 73 of 2023 dated 12.06.2023, by which, the stay granted by the learned Commissioner by order dated 26.05.2023 came to be vacated. The case of the petitioner is that respondent No. 3 Shivaji has filed a dispute before the Collector under the Village Panchyat Act alleging that the petitioner has four issues, therefore, is disqualified under Section 14 (j) – (1) of the Village Panchyat Act.

4. The learned Commissioner by the judgment and order dated 17.05.2023 was pleased to allow the dispute holding that the petitioner is having four children. Out of them, two are born after 12.09.2001 and has therefore incurred disqualification. The petitioner, thereafter, has filed appeal before the learned Additional Commissioner, Nashik. The learned Additional Commissioner, initially granted stay to the order passed by the Collector, holding the petitioner disqualified by order dated 09.06.2023. However, lateron, he vacated the interim relief holding that the Collector has rightly passed order of disqualification.

5. It is the submission of the learned Advocate for the

petitioner that since appellate remedy is provided under the Act, protection deserves to be given. The learned Additional Commissioner has in fact granted stay, however, without considering that the appeal is filed, has vacated the stay without sufficient reasons. He submits that if the stay is not continued, his appeal itself may become infructuous and prays for protection at least till the decision of the appeal before the Additional Commissioner.

6. The learned Advocate for respondent No. 3 vehemently opposes the petition. He points out that there was inquiry held in the allegations and it is only after the report of the inquiry, it is held that two issues are born to the petitioner after 12.09.2022. While such voluminous evidence is available on record, the petitioner does not deserve any equitable relief. The Commissioner has specifically recorded the finding before passing the order, therefore, no interference is called for.

7. The learned AGP for respondent Nos. 1 & 2 supports the order passed by the Additional Commissioner.

8. After considering the submissions and after hearing the arguments, this Court finds that now the appeal has been filed therefore, it is necessary to protect the petitioner. The learned Additional Commissioner has in fact granted stay to the impugned order passed by the Collector. Under such circumstances, it ought to have been continued till disposal of the appeal on merits.

9. While considering the petition this Court need not make observations on the merits of the matter, as the substantive appeal is still pending before the Commissioner. This Court, therefore, is disposing of the Writ Petition in the following terms :

ORDER

- a) The Writ Petition is allowed.
- b) The impugned order dated 12.06.2023 passed by the Additional Commissioner in Grampanchyat Appeal No. 73 of 2023, vacating the interim relief, is quashed and set aside.
- c) There shall be stay to the order passed by the Collector dated 17.05.2023, in Grampanchyat Dispute No. 09 of 2023 till decision of appeal before the learned Commissioner.

d) It is expected of the learned Commissioner to decide the appeal within four weeks from today.

(KISHORE C. SANT)
JUDGE

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