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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5163 OF 2023

Priyanka S. Gaware	...Petitioner
V/s.	
State of Maharashtra & Ors.	...Respondents

Mr.Surel S. Shah i/b Mr.S.M. Deshpande and Mr.Abhishek R. Avachat for the Petitioner.

Ms.Sushma S. Bhende, AGP for the State – Respondent Nos.1 to 4.

Mr.R.S. Apte, Senior Advocate with Ms.Sneha Bhange i/b Mr.Chaitanya Nikte for the Respondent No.5.

CORAM : R.D. DHANUKA &
GAURI GODSE, JJ.
DATE : 18TH APRIL, 2023.

P.C. :-

1. By this Petition filed under Article 226 of the Constitution of India, the Petitioner has impugned the order dated 3 April, 2023 passed by the learned Divisional Commissioner, Pune vide order dated 30 December, 2022 passed by the District Collector, whereby the Petitioner has been disqualified as a Member of the Grampanchayat, Koregaon, Taluka Shirur, District Pune.
2. In the nomination form submitted by the Petitioner, the Petitioner has claimed to be the owner of the structure constructed

on the Gairan land i.e. owned by the Government. There was unauthorized construction carried out on the said Gairan land. The Respondent No.5 filed a complaint alleging that there was unauthorized construction carried on the Gairan land by the Petitioner.

3. Mr.Shah, learned counsel for the Petitioner does not dispute that in the nomination form, the Petitioner had given the address of the said structure constructed on the Gairan land as her residential address and also had disclosed that the said structure constructed on the said Gairan land is owned by the Petitioner and her husband.

4. It is submitted by the learned counsel that however, the Petitioner was not staying in the premises when the said nomination form was filed. In our view, the said submission is contrary to the details submitted by the Petitioner in the nomination form disclosing the same address of the structure constructed on the Gairan land as residential address and also claimed to be $\frac{1}{2}$ owner of the said structure.

5. In view of this admitted fact, reliance placed by the learned counsel for the Petitioner on the judgment of the Hon'ble Supreme Court in case of **Janabai vs. Additional Commissioner & Ors., (2018) 18 SCC 196** would not assist the case of the Petitioner.

6. In our view, condition No.14(1)(j-3) of the Maharashtra Village Panchayats Act, which provides for disqualification of a person to be a Member of panchayat, who has encroached upon the Government land or public property is satisfied in this case. We find no infirmity in the order passed by the Authorities below. The Writ Petition is devoid of merit and is accordingly dismissed. No order as to costs.

(GAURI GODSE, J.)

(R.D. DHANUKA, J.)

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