

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13757 OF 2023

Shri. Ravindra Ramnath Pawar

...Petitioner

V/s.

Shivaji Bhikaji Pawar & Ors.

...Respondents

Mr. Surel S. Shah i/b Mr. Sachin Gite, for the Petitioner.

Mr. Satish Borulkar a/w Shrishailya Deshmukh & Pravin Gole, for the Respondent No.1

Mr. A. P. Vanarase, AGP, for the Respondent Nos.4, 5 & 6.

**CORAM : MADHAV J. JAMDAR, J.
DATED : NOVEMBER 06, 2023**

P.C.:

1. Heard Mr. Shah, learned counsel appearing for the Petitioner, Mr. Borulkar, learned counsel appearing for the Respondent No.1 and Mr. Vanarase, learned AGP for the Respondent Nos.4, 5 and 6.

2. The challenge in the present Writ Petition is to the legality and validity of the order dated 27th October 2023 passed by the learned Additional Commissioner, Nashik Division, Nashik in Gram Panchayat Appeal No.151 of 2023. By the said impugned order, the order dated 21st September 2023 passed by the

Additional Collector, Nashik in Gram Panchayat Dispute Application No.31 of 2023 has been confirmed.

3. In July, 2023, the Respondent No.1 filed the Dispute Application No.31 of 2023 under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1958 (Act No.III of 1959) ("**said Act**"). The said Section 14(1)(j-3) of the said Act reads as follows :

"**14. Disqualifications.**- (1) No person shall be a member of a *Panchayat*, or continue as such, who-

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. .

(j-3) has encroached upon the government land or public property;"

4. The factual position on record shows that during the pendency of the said Dispute Application No.31 of 2023, the said unauthorised construction was demolished on 19th August 2023, at 2:00 a.m. by using excavator. Thus, it is clear that, the Petitioner has destroyed the evidence with malafide and oblique purpose of getting dismissal of the said Disqualification Application. Both the Authorities have drawn adverse inference against the Petitioner and have held that the evidence has been destroyed. It is settled legal position that the parties to litigation have to approach the Court with clean hands.

5. This is a case where, the Petitioner demolished the

unauthorised construction on 19th August 2023 at 2:00 a.m.. It is a settled legal position that the jurisdiction under Article 227 of the Constitution of India is an equity jurisdiction. The said jurisdiction is not to be exercised in favour of the person who approaches the Court with unclean hands. Accordingly, interference under Article 227 of the Constitution of India is not warranted.

6. The Writ Petition is dismissed with cost of Rs.10,000/- to be paid to Kirtikar Law Library within a period of four weeks from today.

7. At this stage, Mr. Shah, learned counsel appearing for the Petitioner seeks continuation of stay granted by this Court on 29th September 2023 in Writ Petition No.12042 of 2023. However, the impugned order of the Additional Commissioner, Nashik Division, Nashik is dated 27th October 2023 and, therefore, the Petitioner has already been disqualified as a Sarpanch.

8. The factual position on record shows that the conduct of the Petitioner does not entitle him to get any discretionary relief. Accordingly, the said request is rejected.

[MADHAV J. JAMDAR, J.]