

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2601 OF 2023

Sheela Ravindra Gadling_ Vs. ___ Divisional Commissioner and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.D.Tatke, Advocate for petitioner
Mrs. M.A.Barabde, AGP for Respondent Nos. 1 & 2

CORAM : AVINASH G. GHAROTE, J.
DATE : 24/04/2023

1] Heard Mr. Tatke, learned counsel for the petitioner.

2] The petition challenges the order dated 14.3.2023 (pg.17) whereby the plea for interim stay to the order dated 1.11.2022 passed by the Additional Collector disqualifying the petitioner for having three children has been rejected.

3] Mr. Tatke, learned counsel for the petitioner submits that the petitioner had only two children before the date of the commencement and even otherwise the second proviso of clause (j-1) of Section 14 (1) of the Maharashtra Village Panchayat Act covers the issue.

4] Learned AGP appearing for respondent nos.1 and 2 opposes the contention pointing out that the petitioner has two children after the date of commencement and therefore there is no reason to interfere in the impugned order.

5] The petitioner submits that the son was born to her on 16.9.1999. Clause (j-1) was enacted on 13.9.2000. The petitioner claims that another son was born to her on 24.10.2000 and therefore, in view of the second proviso to clause (j-1) of Section 14(1) of the MVP Act, he ought not to be counted, in view of which considering the daughter born to her on 23.1.2022 (23.8.2001 according to the petitioner), the petitioner would be only having two children and therefore could not have been disqualified.

6] In my considered opinion, the second proviso to clause (j-1) of section 14(1) of the MVP Act does not brook of such a meaning altogether, inasmuch as the second proviso merely contemplates the birth of a child or more than one child born in a single delivery within a period of one year, from the date of commencement, which ought not to be taken

into consideration for the purpose of disqualification.

7] In the instant case, between the date of commencement i.e 13.9.2000 and one year period as contemplated by the second proviso to clause (j-1) of section 14(1) of the MVP Act, which expires on 12.9.2001, a son was born to the petitioner on 24.10.2000 and a daughter was born on 23.8.2001. It is thus apparent that during the aforesaid period, the petitioner has begotten two children and therefore, the second proviso to clause (j-1) of Section 14(1) of the MVP Act cannot come to the benefit of the petitioner, as it is not attracted at all. That being the position, in my considered opinion, no fault can be found with the rejection of the stay by the learned Commissioner. The petition is therefore dismissed. No costs.

JUDGE

Rvjalit