



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

Writ Petition (WP) No. 3245 of 2022

Surendra Dynaneshwar Mehara

Versus

The Collector, Akola and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.J.Gilda, Advocate for the petitioner.

Shri D.P.Thakare, Addl.G.P. for the respondents/State.

Shri A.V.Gawande, Advocate for the respondent no.4.

CORAM : ANIL S. KILOR, J.

DATED : 6th OCTOBER, 2023.

Heard.

2. The petitioner applied for disqualification of respondent no.4 under Section 14 (1)(j-3) of the Maharashtra Village Panchayat Act, 1959 alleging that the respondent no.4 has encroached upon the Government Land.

3. The Collector, Akola allowed the said application and disqualifying the respondent no.4 vide order dated 15th February, 2022, which was the subject

matter of challenge before the Divisional Commissioner, Amravati.

4. The Divisional Commissioner, Amravati on 22nd February, 2022 heard the matter and closed for argument.

5. However, the ordersheet of the Divisional Commissioner, Amravati shows that subsequent to the closure of matter for orders, certain documents were filed by the respondent no.4 on record and thereupon, notice was issued for hearing.

6. Accordingly on 26th April, 2022 the matter was heard and decided by the Divisional Commissioner, Amravati allowing the appeal filed by the respondent no.4 and thereby setting aside the order of the Collector, Akola dated 15th February, 2022 vide impugned order dated 10th May, 2022, which is under challenge in this writ petition.

7. The only submission made by the learned counsel for the petitioner is that after closure of the matter for order, by the Divisional Commissioner, Amravati, the respondent no.4 applied to the Secretary/ Sarpanch, Gram Panchayat Sirso and on receiving a report in pursuance of such application it was filed on record. Thereafter, on 10th May, 2022 the appeal came to be allowed relying upon the same.

8. It is submitted that the documents which were placed on record after the closer of case for order, were never supplied to the petitioner and therefore the petitioner did not get an opportunity to make any submission relating to those documents.

9. Shri Thakare, learned Additional Government Pleader for the respondents/State and Shri Gawande, learned counsel for the respondent no. 4 are not disputing the fact that after the closure of the matter for order, certain additional documents were filed on record by the respondent no.4.

10. There is nothing on the record to show that the documents filed subsequently by the respondent no.4 were supplied to the petitioner and thereby an opportunity was given to the petitioner to make submission on such documents.

11. In that view of the matter, the only option left with this Court to remand the matter to the Divisional Commissioner, Amravati to decide the same afresh after supplying the documents filed subsequent to the closure of the matter for order and after hearing both the parties. Accordingly, I pass the following order.

i. The writ petition is partly allowed.

ii. The order dated 10th May, 2022 passed by the Divisional Commissioner, Amravati is hereby quashed and set aside.

iii. The matter is remanded back to the Divisional Commissioner, Amravati to decide the same afresh after providing sufficient opportunity to both the parties and further on supplying copies of the document to the petitioner which was subsequently filed by the respondent no.4 after closure of the matter on 22nd February, 2022 for order.

iv. The parties shall appear before the Divisional Commissioner, Amravati on **31st October, 2023** on 12 noon.

v. The Divisional Commissioner, Amravati is directed to decide the appeal within three months from the date of appearance of the parties.

[ANIL S. KILOR, J.]