



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

WRIT PETITION NO. 3112 OF 2023

(DILIP AJABRAO BORATE & OTH ..VS.. STATE OF MAH. DEPT. OF RURAL DEVELOPMENT & OTH)

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

Court's or Judge's orders

Shri R.B.Dhore, Advocate for Petitioners.
Shri N.R.Patil, A.G.P. for Respondent Nos. 1 to 3.

CORAM : ANIL S. KILOR, J.
DATED : SEPTEMBER 27, 2023.

1. On the ground of encroachment made by the respondent No.5 on the Government land, the objection raised by the petitioner to the nomination paper of the respondent No.5 for the election of Sarpanch, Village Panchayat, Tonakhairi, came to be rejected, and it is the subject matter of challenge in the present writ petition.

2. At the interim stage, this Court did not interfere with the order and permitted the election to be held. In the said election the respondent No.5 got elected.

3. It is pertinent to note that vide order dated 16/05/2023 this Court directed the Election Officer to reconsider the objection of the petitioner and pursuant to which the Election Officer called a report and from the report it is revealed that the respondent No.5 has encroached upon the government land.

4. In the above referred backdrop, according to me, as at this stage, this Court cannot consider the issue about the disqualification or setting aside the election. The only option available is to grant liberty to the petitioner to file appropriate proceedings challenging the election of the respondent No.5 or seeking her disqualification under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1958,

5. Accordingly, I pass the following order:

- i) The petitioner is permitted to withdraw the present writ petition with liberty to file appropriate proceedings as available in law for disqualification of the respondent No.5.
- ii) If any such application for disqualification of the respondent No.5 is filed by the petitioner, the Collector shall consider and decide the same expeditiously.
- iii) All the points are kept open.

The Writ petition is **disposed of** accordingly.
No order as to costs.

JUDGE