

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

Writ Petition No. 3420 of 2018

PETITIONER : Savita W/o Madhukar Mane, Aged about 30 years, occu.: Agriculturist, R/o. Pimpri (Kalaga), Taluka Ner, Distt. Yavatmal.

-Versus-

RESPONDENTS :

1. The Commissioner, Amravati Division, Amravati.
2. The Collector, Yavatmal, District Yavatmal.
3. Gram Panchayat Pimpri (Kalga), Through its Secretary, Tq. Ner, Distt. Yavatmal.
4. Shri Gajanan Deoraoji Bhoyar, aged about – major, Occu: Agriculturist, R/o. Pimpri (Kalga) Tq. Ner., Distt. Yavatmal.

Mr. S.S.Dhengale, counsel for the petitioner.
Mr. K.L.Dharmadhikarri, AGP for respondent Nos.1 and 2.
None for respondent Nos.3 and 4.

CORAM : ANIL S. KILOR, J.

DATED : 06.01.2023.

ORAL JUDGMENT

Heard.

2. **Rule.** Rule made returnable forthwith. Though the respondent Nos.3 and 4 are served, none present on their behalf. Therefore, the petition is heard finally with the consent of the learned counsel for the respective parties.

3. The present petition is arising out of application for disqualification moved against the petitioner, which was rejected by respondent No.2-Collector and thereupon in appeal before respondent No.1-Divisional Commissioner, it was allowed partly and set aside the order of respondent No.2-Collector with direction to measure the land in question through the Tahsildar and if encroachment is found, necessary action be taken.

4. The learned counsel for the petitioner submits that this petition has become infructuous considering the period lapsed after the election, therefore, the direction of respondent No.1-Divisional Commissioner to measure the land is now unwarranted.

Furthermore, it is submitted that the report of measurement was filed before respondent No.1 by the Secretary of the Gram Panchayat, in which, he has in clear terms stated that there is no encroachment made by the son of the petitioner.

5. On the other hand, learned AGP supports the impugned order.

6. I have perused the impugned order and the documents filed along with the petition. The period of term of office as Member of the Gram Panchayat is over, as such the matter has become infructuous. As far as the grievance of the petitioner about the direction of respondent No.1-Divisional Commissioner to the Tahsildar to measure the land is concerned, admittedly, the land is situated within the jurisdiction of Gram Panchayat and the Gram Panchayat has got every authority and right to take action in case of encroachment under the Maharashtra Village Panchayat Act and as no cause of action survives, the order directing the Tahsildar to measure the land has lost its efficacy.

7. In that view of the matter, the impugned order passed by respondent No.1-Divisional Commissioner, dated 16/05/2018 is hereby quashed and set aside. The Gram Panchayat is at liberty to take necessary steps, if so desires under the provisions of the Maharashtra Village Panchayat Act.

8. Rule is made absolute in the above terms. No order as to costs.

[ANIL S. KILOR, J.]