



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

Writ Petition No.6035 of 2022

**NITIN JOTIRAM RATHOD VS THE ADDITIONAL COMMISSIONER,
AMRAVATI DIVISION, AMRAVATI 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 D.B. Walthare, Advocate for the Petitioner/s
Ms M. Naik, AGP for the Respondent Nos.1 and 2/State
Shri A.D. Girdekar, Advocate for the respondent Nos. 4 and 5

CORAM : ANIL S. KILOR, J.
DATED : 17.10.2023

1. Heard.
2. The petitioner is the complainant, who filed the complaint under Section 14(1)(J-5) of the Maharashtra Village Panchayat Act, 1959 (for short "the Act of 1959") for disqualification of the respondent No.4 on the ground that there is no toilet at her house.
3. The Additional Collector, Yavatmal allowed the said complaint vide order dated 30.05.2022, disqualifying the respondent No.4.
4. Thereupon, feeling aggrieved, the respondent No.4 filed an appeal under section 16(2) of the Act of 1959, which came to be allowed by the Additional Commissioner, Amravati vide impugned order dated 24.06.2022. The same is the subject matter in this petition.
5. The Additional Collector, Yavatmal while disqualifying the respondent No.4 has not made any observation that there was no

toilet constructed by the respondent No.4. The reason for disqualification was that, though the toilet was there, it was not in use during the time of election for some period.

6. A provision of Section 14(1)(j-5) of the Act of 1959 says that no person shall be continued as a member of the panchayat, who fails to submit a certificate of the concerned *panchayat*, alongwith the resolution of the Gram Sabha certifying that, he resides in a house owned by him and has a toilet in such house and he regularly uses such toilet; or he resides in a house not owned by him and has a toilet in such house and he regularly uses the public toilet.

7. The reason, cited by the petitioner that, toilet was under repairing for few days and therefore, it was not in use, has not been considered by the Additional Collector.

8. The Additional Commissioner has rightly observed that since beginning, there was toilet at the house of the respondent No.4 and she as well as her family members regularly used the same. However, considering the period for repairing, the said toilet was not used by the respondent No.4 and her family members.

9. In that view of the matter, I do not find any perversity or illegality committed by the Additional Commissioner, Amravati in allowing the appeal preferred by the respondent No.4. Accordingly, the writ petition is **dismissed**.

[ANIL S. KILOR, J.]