



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

Writ Petition No.6489/2023

Sau. Jeevankala V the Commissioner, Nagpur and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Dr. R.S. Sirpurkar, Adv for petitioner.
Mrs. S.S. Jachk, AGP for resp. nos. 1 to 3.
Mr. I.K. Devdasare, Adv for resp. no.4.

CORAM : AVINASH G GHAROTE J.

DATE : 05-10-2023

Heard Dr. Renuka Sirpurkar, learned Counsel for the petitioner, Mrs. Jachak, learned AGP for respondent nos.1, 2 and 3 and Mr. I.K. Devdasare, learned Counsel for respondent no.4.

2. The petition challenges the order dated 26-06-22 (pg 46) passed by respondent no.2-Collector, Gadchiroli dis-qualifying the petitioner u/s 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959, on account of having committed encroachment upon the land bearing survey No.75 of mouza Maroda, Tah Chamorshi, Dist Gadchiroli, which order has been upheld by the learned Commissioner in appeal by the order dated 25-07-23 (pg 59).

3. It is contended by learned Counsel for the petitioner that the factum of encroachment has not been established on record and there is nothing to connect the present petitioner with the encroachment, as a result of which,

disqualification cannot be sustained.

4. Learned AGP as well as learned Counsel for the respondent no.4 supports the impugned order.

5. The land owned by the father in law of the petitioner is S.No. 74, which ownership is not disputed. The land of S.No.75 is situated to the north-west of the land of S.No.74 as is indicated by the Patwari Map at page 33. S.No. 75 appears to be encircled by a watercourse (Nullah), on the north-south side. It is also not in dispute that there is entry in the encroachment register for the said village which indicates that S.No.75 has been encroached by Lahu Pochu Nagose, the father in law of the petitioner (pg 35). The inspection report (pg 27) indicates that the land of S.No. 75, is under cultivation in which cultivation of Rice is being done, by dividing the land into various compartments and sowing it. It is also necessary note that the petitioner has not come up with a categorical case that no encroachment has been made on the land of S.No. 75 by her father in law, who being no more, the land of S.No. 75 is presumed to be inherited by her husband and his brother. A plea has been raised that the land of S.No.75, has vanished in the watercourse (Nullah). As such a plea was raised it was necessary for the petitioner to have demonstrated the factuality by the mode as permissible in law, which has not been so done. The authorities were clearly justified, in relying upon the inspection report which indicates that the land of S.No. 75 was still in existence and was being cultivated by compartmentalization, Rice being

sown in it.

6. In that view of the matter, I do not see any reason to interfere in the order on the ground that encroachment has not been demonstrated. The petition is therefore dismissed. No costs.

JUDGE

Deshmukh