



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

WRIT PETITION NO.7102 OF 2022

Prajakta Nitin Ingale .Vs. 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

Ms Shreya Jain, Adv. h/f Shri S.S. Dhengale, Adv. for petitioner.
Shri S.B. Bissa, A.G.P. for respondent Nos.1 and 2/State.

CORAM : ANIL S. KILOR, J.

DATED : 21/12/2023

1. Heard.

2. The order disqualifying the petitioner as a member of Gram Panchayat vide order dated 15.07.2022 is upheld by the impugned order dated 17.10.2022 by the Additional Commissioner, the same is under challenge in this writ petition.

3. The respondent No.4 filed a proceeding for disqualification of the petitioner after the petitioner got elected as member of Gram Panchayat, Vivekanand Nagar (Hiwra Ashram) under Section 14(1)(J-3) of the Maharashtra Village Panchayat Act, 1959 (hereinafter referred to as "the Act of 1959"), alleging that the petitioner has encroached upon the government land.

4. Accordingly, the report was called from the Talathi and Circle Officer who has confirmed the fact of encroachment. The Talathi and Circle Officer arrived at a certain conclusion on the basis of the revenue record i.e. from the register-8 maintained in the office of the gram panchayat.

5. The copies filed along with the Writ Petition of register-8 in respect of the land involved in the present matter shows that the land is of government land and in the column of the possession, the name of the husband of the petitioner is mentioned.

6. It is the case of the petitioner that the rent agreement filed along with the petition, supports the case of the petitioner that she resides at some different address and not in the house in dispute though in the revenue record it is shown that it is in possession of the husband of the petitioner.

7. After considering the rent agreement, a specific query was put to the learned counsel for the petitioner that, at what address the notice of proceeding of disqualification was served upon the petitioner. The learned counsel for the petitioner on receiving instruction from the petitioner has fairly stated that the notices were served upon the petitioner

at the same address i.e. the house in dispute and of which the revenue record shows that the land is a government land.

8. The learned counsel for the petitioner submits that as the advocate who was engaged before the Collector did not file the reply and also failed to file the relevant documents before the Collector and therefore, the Collector could not consider the case of the petitioner in right perspective. It is therefore, prayed that one opportunity should be granted to the petitioner to defend her case.

9. Even if the above referred submission of the learned counsel for the petitioner is accepted, the documents on which the petitioner is relying upon and placed along with this writ petition, have considered by me without giving much weightage to the fact that the petitioner failed to file all these documents before the Collector.

10. After going through each of the documents, I am satisfied that there is nothing on record to hold contrary to the observations made by the Collector or the Additional Commissioner or to arrive at a different conclusion than the conclusion already arrived at by the Collector.

11. The petitioner nowhere in the petition disputing the document relating to the revenue record in respect of the house in dispute. The petitioner is also not disputing the fact that in the column of possession of the house in dispute, the name of the husband of the petitioner is mentioned. In addition to the same, the fact that the notice of the application for disqualification was served upon the petitioner at the same address and not on the address stated in the rent agreement, takes me to the only conclusion that no error has been committed by the Collector in holding that the petitioner is not qualified to continue as member of Gram Panchayat in view of the provisions namely 14(1)(J-3) of the Act of 1959.

12. In the circumstances, the writ petition is **dismissed**.

JUDGE