



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

Writ Petition No.8113 of 2022

Anjali Yashwant Patil

Vs

The Divisional 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 Ram Karode, Advocate for the Petitioner/s
Shri D.P. Thakare, Addl.G.P. for the Respondent Nos.1 to 3 and 5/State
Ms Nandini Thete h/f Shri N.P. Thete, Advocate for the respondent No.6
Shri G.O. Gadage, Advocate h/f Shri Kshirsagar, Advocate for the
respondent No.7

CORAM : ANIL S. KILOR, J.

DATED : 31.08.2023

1. Heard.
2. The petitioner came to be disqualified on the ground that she had constructed a toilet on the public road, whereas, she submits that as per the statement of the Secretary and the former Sarpanch of the Gram Panchayat, Dudhalgaon Bk., Tah. Malkapur, District Buldhana, the said toilet was constructed by the Gram Panchayat for public purpose.
3. The learned counsel for the respondent No.7/original complainant points out that a Spot Inspection Panchanama. The Spot Inspection Panchanama does not say who has constructed the said toilet. It only shows that there is a toilet inside the house of the petitioner and another one on the public road. There is no evidence brought on record by the original

complainant or the Authorities that, the said toilet was constructed by the petitioner.

4. The learned counsel for the respondent No.6/Gram Panchayat maintains the stand taken by the Secretary as well as the former Sarpanch of the Gram Panchayat that, the said toilet was constructed by the Gram Panchayat for public purpose.

5. From the order of the Additional Collector, Buldhana, it is evident that the finding recorded by the Additional Collector is contrary to the Spot Inspection Panchanama. The Additional Collector has not discussed any reliable evidence, showing that the construction was made by the petitioner.

6. It is significant for the purpose that once it is the case of the Gram Panchayat that, it was constructed by the Gram Panchayat, the Additional Collector ought to have made an inquiry into the said issue. However, without making the inquiry, the petitioner came to be disqualified and said order was upheld by the Additional Commissioner, Amravati, without considering the above referred facts.

7. In that view of the matter, the matter needs to be remanded back to the Additional Collector, Buldhana for fresh inquiry. Accordingly, I pass the following order:

(i) The writ petition is partly **allowed**.

(ii) The order dated 13.12.2021 passed by Additional Collector, Buldhana and the order dated 03.10.2022

passed by the Additional Commissioner, Amravati Division, Amravati, are hereby quashed and set aside.

(iii) The matter is remanded back to the Additional Collector, Buldhana for fresh inquiry and decide the same afresh, after hearing both the parties.

[ANIL S. KILOR, J.]