



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

57 WRIT PETITION NO.7892 OF 2024

SUREKHA MOHAN YADAV

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. K.V. Patil, Advocate for petitioner

Mr. P.D. Patil, AGP for respondent Nos.1 to 3

Mr. V.G. Kodale, Advocate for respondent No.4

Mr. R.B. Ade, Advocate for applicant

...

WITH

CIVIL APPLICATION NO.7697 OF 2024 IN WP/7892/2024

...

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 29th JULY, 2024

ORDER :

1 Heard learned Advocates appearing for respective parties.

2 Petitioner impugns order dated 12.07.2024 passed by Additional Divisional Commissioner, Chhatrapati Sambhajnagar below stay application in File No.2024/Gram Panchayat/Appeal-1/CR-46, by which prayer of

petitioner to grant stay to order dated 27.06.2024 passed by Collector, Latur in File No.2024/GrampNi/CR/17 disqualifying petitioner under Section (1) (J-3) of Village Panchayats Act, has been rejected.

3 Learned Advocate appearing for petitioner submits that his Gram Panchayat Appeal is pending before Additional Divisional Commissioner. Petitioner has placed many documents to indicate that plot in question was allotted to him being earthquake affected person and construction was made on the basis of such allotment. Petitioner has placed on record Kabala Certificate, which is issued subsequent to disqualification order. All the disputed facts are required to be re-appreciated and re-considered in appeal.

4 In that view of the matter, learned Additional Divisional Commissioner ought to have granted interim protection as prayed by petitioner. Consequently, without going into merits of matter, it would be appropriate that appeal itself is decided on merit by learned Additional Divisional Commissioner, Chhatrapati Sambhajnagar within specified period after hearing all concern. Till decision of appeal, order of disqualification needs to be kept in abeyance. Hence, following order.

ORDER

1 Writ Petition is partly allowed.

2 Impugned order dated 12.07.2024 passed by Additional Divisional Commissioner, Chhatrapati Sambhajnagar is quashed and set aside.

3 The order dated 27.06.2024 passed by District Collector, Latur disqualifying petitioner be kept in abeyance till final hearing and disposal of Case No.2024/Gram Panchayat/Appeal-1/CR-46 pending before learned Additional Divisional Commissioner, Chhatrapati Sambhajnagar, subject to condition that petitioner shall not seek any adjournment in proceeding pending before Additional Divisional Commissioner.

4 The appeal shall be disposed of without influenced by any observation, within a period of four weeks from next date of hearing i.e. 07.08.2024.

5 Parties to co-operate.

6 Writ Petition stands disposed of.

7 Civil Application also stands disposed of.

(S.G. CHAPALGAONKAR)
JUDGE

agd