



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

17 WRIT PETITION NO. 10328 OF 2024

ANURADHA PRADIP PATALE AND OTHERS
VERSUS
THE ADDITIONAL COMMISSIONER NO 1 AND OTHERS

...
Advocate for the Petitioner : Mr. Avinash A. Khande h/f Mr.
Shivpuje Anil Subhashrao
AGP for Respondents/State : Mr. P.D.Patil
Advocate for Respondent No. 4 : Mr. D.P. Mundhe h/f U.B.
Deshmukh
...

CORAM : KISHORE C. SANT, J.

DATE : 23rd SEPTEMBER, 2024.

PER COURT :

1. Heard the parties for some time.
2. Leave to correct Serial numbers of the respondents in title clause of the petition.
3. The challenge in this Writ Petition is to the order dated 14.08.2024 thereby the stay application of the present

petitioners came to be rejected by the learned Additional Divisional Commissioner -1, Ch. Sambhajnagar in appeal under Section 16 (2) of the Maharashtra Village Panchyat Act, 1958.

4. The petitioners are the persons who are disqualified by the Collector on the application of respondent No. 4 Baburao on the ground that they have encroached upon the government land.

5. All the petitioners were elected members of Grampanchyat Hangarga, Tq. Mukhed, District Nanded. Petitioner No. 1 thereby came to be nominated as Up-sarpanch.

6. By way of order passed by the learned Collector dated 28.06.2024, the petitioners approached learned Additional Divisional Commissioner. They also filed an application for stay to the order dated 28.06.2024.

7. All the parties are before this Court.

8. Learned Advocate for the petitioners submits that if no stay is granted, authorities are likely to declare the post as vacant. As it is declared further elections at least in case petitioner No. 1 to the post of Sarpanch. If such appeal itself is heard, the learned Additional Commissioner therefore ought to have granted stay.

9. It is clear that appeal before learned Additional Divisional Commissioner is the first remedy available after the order passed by the learned Collector. It is therefore, expected to see that the appeal will not become in fructuous for non grant of stay as to the orders declaring the persons like the present petitioners as disqualified. The right of appeal is valuable right. Considering that it was necessary for the learned Additional Divisional Commissioner to grant stay to the order passed by the learned Collector.

10. Considering that it is a limited issue, the Court has heard the parties at this stage. For the reasons recorded above, the petition stands disposed off with following order :

ORDER.

(i) The Writ Petition stands allowed and disposed off.

(ii) The order impugned dated 14.08.2024 Annexure (G) is quashed and set aside.

(iii) Learned Additional Commissioner is requested to decide the appeal as far as possible within two months from today.

(iv) Till then, there shall stay to the judgment and order passed by the learned Collector dated 28.06.2024 under Section 14 (J-3) and Section 16 of the Maharashtra Village Panchyat Act, 1958.

**(KISHORE C. SANT)
JUDGE**

mahajansb/