IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1842 OF 2024

Sou.Sushma Sharadchandra Raje Ghorpade }
Age-36 years, Occ: Social Service, }
R/at Nandgao, Taluka-Satara, }
District-Satara. }
….Petitioner

Versus

1. State of Maharashtra }
(Summons to be served on the Learned Government Pleader appearing for State of Maharashtra under Order XXVII, Rule 4, of the Code of Civil Procedure, 1908) }

NILAM SANTOSH KAMBLE
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2. The Collector, }
District-Satara }

3. The Commissioner, }
Pune Division, Pune }

4. Sau.Amruta Nilesh Sadavarte }
Age-Adult, Occ: Social Service }
R/at Nandgao, Taluka-Satara, }
District-Satara }

5. Sau.Ashwini Pravin Khamkar }
Age-Adult, Occ: Social Service }
R/at Nandgao, Taluka-Satara, }
District-Satara }

6. Gam Sevak }
Gram Panchyayat Nandgaon, Nangdaon, }
Taluka-Satara, District-Satara. } **….Respondents**

Mr.Rushikesh C. Barge, for the Petitioners.
Ms.V.S. Nimbalkar, AGP, for Respondent Nos.1 to 3-State.
Mr.Dilip Shinde a/w Mr.Mukund Mane, for Respondent No.4.

CORAM : R.M. JOSHI, J.

DATE : 23rd AUGUST 2024

JUDGMENT :-

. The Petitioner is aggrieved by impugned order passed by Divisional Commissioner in Appeal under Section 16(2) of Maharashtra Village Panchayat Act, 1959 where by order dated 31st May 2023 passed by Collector of disqualification of Respondent No.4 under Section 14(j-5) of the Act, has been set aside.

2. The Petitioner is unsuccessful candidate in the election of the Grampanchyat held on 15th January 2021. It is the case of the Petitioner that, the election program was declared on 15th December 2020 and notice of election was published on the same date. On 30th December 2020 was the last day of the filing

of the nomination. The Respondent No.4 filed nomination and Affidavit dated 30th December 2020 was submitted stating that, she owns a house with a toilet. Respondent No.4 was elected and become member of the Grampanchayat.

3. The Petitioner filed Application invoking provisions of Section 14(j-5) moved Application bearing No.14 of 2022 before Collector, Satara. It is claimed by the Petitioner that Respondent No.4 has submitted a false affidavit contending that she owns her house where there is a toilet and in fact subsequent records indicates that she is residing at some other place and not in her own house. The Collector passed order dated 31st May 2023 allowing Application and disqualified Respondent No.4. This order came to be challenged by Respondent no.4 before the Additional Commissioner in Appeal No.22 of 2023, successfully. Hence, this Petition.

4. The learned counsel for the Petitioner has draw attention of this Court to the affidavit filed by Respondent No.4, at the time of filing nomination form to the effect that, she owns a house wherein there is a toilet. According to him as per the

information received from Gram Seveak, Grampanchayat Nandgaon, Taluka and District-Satara, it is revealed that no property was found in the name of Respondent No.4 and the house found in the name of her father- in-law without there being a toilet. It is on the basis of this information it is sought to be argued that, the present case is duly covered by Section 14(j-5) of the Act and as such the Divisional Commissioner was not justified in allowing the Appeal by setting aside the order of disqualification of Respondent No.4 passed by the Collector.

5. The learned counsel for Respondent No.4 opposed the said submissions by contending that objection was raised by the Petitioner in respect of the affidavit filed at the time of filing nomination for the election and said objection was rejected by the Returning Officer. It is his submission that, if at all the Petitioner wants to challenge the said affidavit, it has to be taken exception by filing election Petition. In response thereto, the learned counsel for the Petitioner submits that, Section 15 of the Act does not contemplate challenge to the election on this ground.

6. At the outset, it needs to be considered the intent of

the legislature to incorporate Section 14(j-5) of the Act. The purpose behind indicating the said provisions is to ensure that the person who represents the people, himself to have a toilet in his house. The initiative of construction of toilet in each house is to depreciate defecting in the public places, which would ultimately helpful for maintenance of hygiene and public health. Thus the intent of the legislature it is to see that the member of the grampanchayat has toilet facility in house. In the instant case, there is evidence on record which indicate that a certificate has been issued by grampanchyat, Nandgaon that the Petitioner is residing in House No.423/A belonging to Nalini Kishor Dharashivkar, Respondent No.5 and she using the toilet situated therein. Thus there is certification by the grampanchyat to that effect in compliance of Section 14(j-5). The Collector has failed to take into consideration the legislative intent, so also evidence on record. On the other hand, Divisional Commissioner has rightly appreciated the said provisions and the effect of the certificate issued by the grampanchayat vis-a-vis provisions of Section 14(j-5) of the Act.

7. Having regard to the facts and circumstances of the case and considering relevant provisions of the Act, this Court finds no perversity in the order passed by the Additional Commissioner and as such no interference is required therein. Hence, Petition is dismissed.

8. All pending Civil/Interim Applications are disposed of.

(R.M. JOSHI, J.)