



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9859 OF 2024

Arun Vishvanath Potdar.

...Petitioner.

Versus

Harun Harendra Chavan and Others.

...Respondents.

Mr. Rahul Kasbekar for the Petitioner.

Mr. Shantanu Kalekar for the Respondent No. 1.

Mr. J. P. Patil, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : November 13, 2024.

P. C. :

1. Heard.
2. By this petition, the challenge is to the order dated 8th April 2024 rejecting the application for stay of the order passed by the Collector pending the hearing and final disposal of appeal before the Divisional Commissioner in proceedings arising out of disqualification proceedings under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act.
3. Learned counsel appearing for the Petitioner submits that disqualification was ordered by the Collector on an erroneous finding that the encroached property is in continued occupation of the present petitioner whereas the Petitioner is residing separately along with her

husband and children and necessary documentary evidence to that effect was already produced. He would further submit that in the appeal proceedings if the stay is not granted, the appeal will be rendered infructuous.

4. *Per contra* learned counsel appearing for the Respondent No.1 submits that the term of the Petitioner is likely to be over in the month of January 2026. He would further submit that as there is no merit in the matter, the Divisional Commissioner has declined the grant of stay.

5. The Petitioner who is a woman has been elected as member of Grampanchayat Gaganbawada, Taluka Kolhapur for the term of 2021-2026. The term is likely to be over in the month of January 2026.

6. The case of Petitioner is that the Petitioner is not the beneficiary of encroachment which is alleged and the same shows the name of in-laws of Petitioner and as the appeal has been preferred by the Petitioner, in event stay is not granted, the order of Collector disqualifying the Petitioner would be put into effect and the entire appeal would be rendered infructuous.

7. Considering that proper opportunity is required to be given to the Petitioner to challenge the findings of Collector before the appellate authority, declining the application for interim stay would amount to depriving the Petitioner of an opportunity of hearing.

8. In the light of above, the impugned order dated 8th April 2024 is

hereby quashed and set aside.

9. This Court is informed is that the appeal proceedings is listed before the Divisional Commissioner on 5th December 2024 for hearing. Parties agree that no unnecessary adjournment will be sought and the parties will proceed with the hearing of appeal. In the light of assurance given by the parties, the impugned order of Collector dated 31st January 2024 is stayed till the disposal of appeal by the Divisional Commissioner. Further, in event in the appeal proceedings, if any order adverse to the interest of Petitioner is passed, the same shall not be given effect to for the period of two weeks from the date communication of such order to the Petitioner.

10. Writ petition stands disposed of.

[Sharmila U. Deshmukh, J.]