



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16400 OF 2024

Ramchandra Sadashiv Kumbhar.

...Petitioner.

Versus

The Additional Divisional Commissioner
Pune and Others.

...Respondents.

Mr. Utkarsh Desai for the Petitioner.

Ms. Tanu Bhatia, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : November 12, 2024.

P. C. :

1. Heard.
2. By this petition, the challenge is to the order dated 15th October 2024 passed by the Respondent No.1-Divisional Commissioner on the stay application taken out by the Petitioner in Appeal No.57 of 2024, rejecting the said application.
3. Facts of the case are that the Petitioner came to be elected as Sarpanch of Respondent No.3-Grampanchayat on 20th December 2022. On 30th January 2023, a dispute came to be filed by the Respondent No.4 before the Respondent No.2–Collector seeking disqualification of the Petitioner under Section 14(1)(j-1) of the Maharashtra Village Panchayats Act on the ground that the Petitioner has more than two

children. After hearing parties, the Respondent No.2 disqualified the Petitioner vide order dated 26th August 2024 as against which an appeal came to be preferred being Appeal No.57 of 2024. In those proceedings, the Petitioner filed an application for stay of the order of Additional Collector which has been rejected by the Divisional Commissioner, which is impugned in the present petition.

4. Learned counsel appearing for the Petitioner would submit that the Collector has failed to take note of the affidavit filed by Geeta Tukaram Kumbhar, mother of said child and who happens to be the sister-in-law of Petitioner, admitting that the Petitioner is not a biological father of her child and only for the purpose of giving name to the child born to her, she being unmarried, the name of Petitioner has been entered into in the birth certificate as well as school record. He would further submit that it was held that the Petitioner married for second time with said Geeta Tukaram Kumbhar and there is no finding that the Petitioner is having third child from the second wife.

5. It is not disputed that in the birth certificate of third child the name of Petitioner is registered as father and also that in the school records the name of petitioner appears as father of said child. The Collector while disqualifying the Petitioner has considered the marriage certificate dated 10th September 2014 which reflects the marriage of Petitioner with said Geeta Tukaram Kumbhar.

6. Considering that the official records shows the Petitioner as father of said child and there is also a marriage certificate on record as regards the marriage of Petitioner with said Geeta Tukaram Kumbhar coupled with the fact that Geeta is admittedly the mother of child, the disqualification order appears to have been rightly passed by the Additional Collector. The Divisional Commissioner while rejecting the application for stay has considered the official record, which cannot be faulted with. Considering the admitted fact that the record shows the Petitioner as father of third child, I am not inclined to interfere with the impugned order of rejection of stay application. Resultantly, Petition fails and stands dismissed.

7. Needless to clarify that the Divisional Commissioner to decide the pending appeal on its own merits, uninfluenced by the observations made in the present order.

[Sharmila U. Deshmukh, J.]