



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13568 OF 2023**

Nitin Dhanaji Ghorpade

.....Petitioner

Vs.

The State of Maharashtra through
the Add. Divisional Commissioner,
Pune Div. Pune and Others

.....Respondents

Mr. Dipak Shinde for the petitioner
Ms. M. P. Thakur, AGP for the State

CORAM : GAURI GODSE, J.

DATE : 12th MARCH 2024

P.C.

1. This petition is filed to challenge the order dated 12th December 2022 passed by the Additional Commissioner, dismissing the petitioner's appeal under section 16(2) of The Maharashtra Village Panchayat Act ('the said Act'). By the said order, the disqualification of the petitioner under section 14(1)(j-1) of the said Act, as member of the gram panchayat is confirmed.

2. Learned counsel for the petitioner submitted that the petitioner's first marriage was dissolved on 16th September 2016 and the third child born to the petitioner is from his second marriage. Hence, the petitioner would not incur disqualification as contemplated under section 14(1)(j-1) of the said Act.

3. I have considered the submissions made on behalf of the petitioner. Perused the orders passed in the appeal preferred by the petitioner as well as original order passed by the learned Collector disqualifying the petitioner. The petitioner was elected as a member of the gram panchayat, Village Saskal on 31st December 2021. On a complaint filed by respondent no. 3, proceedings were initiated against the petitioner for disqualification under section 14(1) (j-1) of the said Act on the ground that the petitioner had more than two children prior to the date of election.

4. It is not disputed by the petitioner that he had more than two children prior to the date of the election. However, the contention raised by the petitioner is that the third child was born out of the second marriage and hence, he will not incur disqualification.

5. I do not see any substance in the arguments made on behalf of the petitioner. Once the petitioner does not dispute that he has more than two children prior to the date of the election, the fact that he has more than two children from more than one marriage is irrelevant. The disqualification incurred by the petitioner is on the ground that he had more than two children on the relevant date i.e. much prior to the date of election. Hence, in view of section 14(1)(j-1) of the said Act, the petitioner is disqualified from being a member of Gram Panchayat.

6. I have perused the reasons recorded by the learned Collector while passing the order disqualifying the petitioner as well as confirmation of the said order by the learned Additional Divisional Commissioner while dismissing the appeal preferred by the petitioner. There is no error or illegality in the reasons recorded by both the authorities warranting any invocation of powers under Article 227 of Constitution of India. The petition is devoid of any merits.

7. For the reasons recorded above, the petition is dismissed.

[GAURI GODSE, J.]