



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1332 OF 2023

[Pravin Vasanta Mankar .Vrs. Eknath Vithoba Deotale and Ors.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr B. M. Kharkate, Advocate for Petitioner.
Mr A. R. Wagh, Advocate for Respondent No.1.
Mr A. A. Madiwale, AGP for Respondent/State.
Mr A. S. Kolhe, Advocate for Respondent No.4.

CORAM : ANIL L. PANSARE, J.

DATE : 9th DECEMBER 2024.

1. Heard.

2. The petitioner is aggrieved by order dated 18.01.2023 passed by the Additional Commissioner, Nagpur Division, Nagpur, who has allowed the appeal filed by the respondent No.1 under Rule 16(2) of the The Maharashtra Village Panchayats Act, 1958 (hereinafter referred to as, "the Act of 1958).

3. The Additional Commissioner has set aside the order dated 01.04.2022 passed by the Collector, Chandrapur, wherein the respondent No.1 was disqualified from being a member of Grampanchayat, in terms of Section 14(1)(j-3) of the Act of 1958. The respondent No.1 was found to have encroached upon the Government land belonging to Maharashtra Government Industries and Labour Industries.

4. It appears from the order passed by the Collector, Chandrapur that the respondent No.1 failed to show his rights over the aforesaid land. As against this, the Tahsildar, Chandrapur has filed a categorical report stating therein that the respondent No.1 is residing in the house which is constructed by him upon the land owned by the Government.

5. This reasoned order has been overturned by the Additional Commissioner on a very flimsy and unacceptable ground. According to her, the Maharashtra Government Industries and Labour Department has not issued any notice to respondent No.1 as regards the encroachment done by him and therefore, an inference, whether the respondent No.1 has encroached upon the land belonging to the Government or not, cannot be drawn. The Additional Commissioner, however, has not assigned any reason as to why the report filed by the Tahsildar, Chandrapur on this point is discarded. Merely because, the Maharashtra Government Industries and Labour Department has not issued a notice to the respondent No.1 by itself may not lead to a conclusion that the respondent No.1 has not encroached upon the Government land.

6. The learned A.G.P. though made an attempt to justify the order passed by the Additional Commissioner failed to show that either the report of Tahsildar was incorrect or that the reasons assigned by the Collector, Chandrapur to disqualify the respondent No.1 were not in consonance with the record.

7. The well reasoned order passed by the Collector, Chandrapur has been set aside by the Additional Commissioner without considering the vital fact i.e. report of the Tahsildar. The order impugned is, therefore, apparently perverse and unsustainable.

8. The writ petition is accordingly **allowed**. The order dated 18.01.2023, passed by the Additional Commissioner, Nagpur Division, Nagpur, is quashed and set aside. The order dated 01.04.2022, passed by the Collector, Chandrapur, is restored.

9. Writ petition is disposed of in terms of above. No order as to costs.

JUDGE