



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2056 OF 2024

(SOU. VATSALA VIKAS TIGHARE ..VS..DIVISIONAL COMMISSIONER, NAGPUR & OTH.)

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

Court's or Judge's orders

Shri A.Z.Jibhkate, Advocate for Petitioner.
Ms Mrunal Naik, A.G.P. for Respondent Nos.1 & 2.
Shri B.S.Dhandale, Advocate for Respondent No.5.

CORAM : ANIL S. KILOR, J.
DATED : APRIL 01, 2024.

1. At the outset, the learned counsel for the petitioner seeks permission to delete respondent Nos. 3 and 4.
2. The permission is granted to delete respondent Nos. 3 and 4 at the risk of the petitioner.
3. The amendment be carried out forthwith.
4. Issue notice to the respondent Nos. 1, 2 and 5, returnable forthwith.
5. Ms Mrunal Naik, learned A.G.P. waives notice for the respondent Nos. 1 and 2 and Shri B.S.Dhandale, learned counsel waives notice for the respondent No.5.
6. The challenge raised in the present writ petition is to the refusal by the Additional Commissioner, Nagpur

Division, Nagpur to decide the appeal filed by the petitioner against her disqualification as Sarpanch of village Walni, on the ground that the Code of Conduct is in operation and any decision in such proceeding would influence the voters in the Gram Panchayat.

7. I find the said reason as nothing but delaying the justice delivery process. The Additional Commissioner cannot refuse to decide any proceedings on the ground that the Code of Conduct is in operation. Such approach is nothing but to avoid to perform the duty cast upon the Additional Commissioner, under the statute.

8. The disqualification is a serious matter. The Hon'ble Supreme Court of India in the case of *Ravi Yashwant Bhoir ..vs.. Collector*, reported in **(2012) 4 SCC 407** has held that because of disqualification not only the elected member suffers but the whole constituency suffers. Hence, in such matter the approach adopted by the Additional Commissioner cannot be accepted and it should be deprecated.

9. Accordingly, the writ petition is disposed of with direction to the Additional Divisional Commissioner, Nagpur Division, Nagpur to decide the appeal, pending before him, at the earliest and in any case within one month from the date of receipt of copy of the order.

10. The Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE