



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR
WRIT PETITION NO.2527 OF 2024**

Gopal B. Shelar ...Petitioner

Versus

1. The Additional Commissioner,
Amravati Division, Amravati
2. The Collector, Buldhana
3. Gat Gram Panchayat Tarwadi
4. Dhammapal P. Tayade ...Respondents

Mr. R.D. Karode for the Petitioner.

Mr. Sagar Ashirgade, AGP for Respondent Nos.1 and 2.

Mr. H.V. Dhage for Respondent No.4.

CORAM : N. R. BORKAR, J.
DATE : 18 JUNE 2024.

PC:-

1. This petition takes exception to the order dated 19.3.2024 passed by the respondent No.1 - Additional Commissioner, Amravati Division, Amravati in Appeal No.116 /BVP-16(2) / Tarwadi / Buldhana /2023.
2. The petitioner herein was elected as a Member of Gat Gram Panchayat, Tarwadi. and thereafter as Sarpanch.
3. Respondent No.4 herein had filed an application before the respondent No.2 - Collector alleging that the father of the petitioner has encroached upon the Government land and

constructed the house. It is alleged that the petitioner is residing in the said house with his father and thus, the petitioner be disqualified from continuing as Member/Sarpanch of Gat Gram Panchayat, Tarwadi, in view of Section 14(1)(j-3) of the Maharashtra Village Panchayat Act.

4. The respondent No.2 - Collector by order dated 29.11.2023 has allowed the said application. By the order impugned, respondent No.1 - Additional Commissioner has dismissed the appeal filed by the present petitioner against the order of respondent No.2 - Collector.

5. I have heard the learned counsel for the petitioner, learned AGP for respondent Nos.1 and 2 and learned counsel for contesting respondent No.4.

4. The learned counsel for the petitioner submits that the petitioner is not residing with his father. It is submitted that the petitioner is residing separately with his family in the rented premises owned by one Gajanan L. Shelar. It is submitted that a specific plea was taken to that effect before the respondent

No.2 - Collector and rent agreement was also filed in support of it. It is submitted that inspite of it, the respondent No.2 - Collector has recorded the finding that the petitioner has not filed any documentary evidence to show that he is residing separately from his father.

5. The fact of filing of rent agreement is not disputed. Therefore, the finding recorded by respondent No.2 - Collector that the petitioner has not filed any documentary evidence to show that he is residing separately appears to be perverse. In that view of the matter, the orders impugned cannot be allowed to stand and the matter will have to be remanded back to respondent No.2 for deciding it afresh. In the result, the following order is passed.

ORDER

A] The orders impugned are set aside. The respondent No.2 - Collector shall decide the application filed by respondent No.4 afresh in accordance with law.

B] The Petition is disposed of in the aforesaid terms.

(N.R. BORKAR, J.)