



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR
WRIT PETITION NO.2680 OF 2024**

Smt. Nanda G. Pawar

...Petitioner

Versus

1. The Divisional Commissioner
Amravati Division, Amravati
2. The Collector, Yavatmal
3. Gram Panchayat Tulshinagar
4. Prem R. Pawar

...Respondents

WITH

CIVIL APPLICATION NO. 1586 OF 2024

Ms Shaad Mirza Isha D. Thakare for the Petitioner.
Mr. Ganesh Umale, AGP for the Respondent/State.
Mr. K.S. Narwade for Respondent No.4.

CORAM : N. R. BORKAR, J.
DATE : 04 JULY 2024.

PC:-

1. This petition takes exception to the order dated 4.3.2024 passed by the respondent No.1 - Divisional Commissioner, Amravati Division, Amravati.

2. The petitioner was elected as a Member and then Sarapanch of Gram Panchayat, Tulshinagar.

3. The respondent No.4, herein had filed the complaint/application before respondent No.2 - Collector, Yavatmal in terms of Section 14 (1) (h) and 14 (1) (j-3) of the

Maharashtra Village Panchayats Act, 1959 alleging that the petitioner stood disqualified to continue to be the member of the Grampanchayat for having failed to pay the taxes within the period of three months from the date of demand of tax by the Grampanchayat and for having committed encroachment on the Government land.

4. The respondent No.2 - Collector by order dated 16.5.2023 has allowed the application filed by the respondent No.4. By the order impugned respondent No.1 has confirmed the said order passed by respondent No.2.

5. I have heard the learned counsel for the parties.

6. As regards the ground in relation to the alleged encroachment on the Government land, the learned counsel for the petitioner submits that, documents were placed on record to show that one Dilip Ramdhan Pawar is the owner of the said property and not the petitioner or her husband. It is submitted that respondent No.2 has not at all considered the said documents. As regards the ground in relation to non-payment of property tax, the learned counsel for the petitioner submits that a specific plea was raised before respondent No.2 in relation to non-compliance of procedure contemplated under

Government Resolution dated 06/04/1996, however, respondent No.2 has not recorded any finding on the said plea. It is submitted that the orders impugned, therefore, can not be allowed to stand.

7. On the other hand, the learned counsel for contesting respondent submits that document at page-32 of the petition filed by the petitioner to rebut the ground of encroachment is not genuine document. As regards the Government Resolution dated 06/04/1996, the learned counsel for the contesting respondent submits that the same would not apply to the facts of present case.

8. I have perused the impugned orders. The finding in relation to alleged encroachment is cryptic. There is no finding in relation to the documents filed by the petitioner to rebut the said ground of encroachment. Similarly, there is no finding in relation to Government Resolution dated 06/04/1996.

9. The matter, therefore, will have to be remanded back to respondent No.2. The orders impugned are set aside and the matter is remanded back to respondent No.2 for deciding it afresh. The respondent No.2 shall endeavour to decide the matter within three months from the date of receipt of copy of

this order.

10. The writ petition is disposed of in the aforesaid terms.

Pending Application(s), if any, are disposed of.

(N.R. BORKAR, J.)