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37-WP-3930-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

37 WRIT PETITION NO. 3930 OF 2025

Santosh Prabhakar Jadhav

VERSUS

The Divisional Commissioner And Others

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Kingaonkar Nandkumar Y, Advocate for the Petitioner

Mr. K. N. Lokhande, AGP for Respondent-State.

Mr. Arvind R. Kawade, Advocate for Respondent No.6.

CORAM : KISHORE C. SANT, J.

DATE : 1st APRIL 2025

PC :-

1. Heard the learned Advocate for the petitioner, learned AGP for Respondent-State and Mr. Kawade, the learned Advocate for Respondent No.6.
2. This petition is filed by the original plaintiff who had filed a dispute before the learned Collector against the Respondent No.6 seeking disqualification on the ground of Sections 14 (1-G) of the Maharashtra Village Panchayat Act. The learned Collector allowed the dispute and held respondent No.6 disqualified to be a member of gram panchayat. The petitioner filed an appeal before the learned

Commissioner. In the appeal, the learned Commissioner by his judgment and order dated 7th February 2025 remanded the matter back to the Collector for fresh decision by judgment and order dated 15th October 2024.

3. After remand, the learned Collector, Chhatrapati Sambhajinagar allowed the dispute application against which the respondent No.6 filed an appeal before the learned Divisional Commissioner, Chhatrapati Sambhajinagar. In the said appeal, if he filed an application seeking stay to the judgment and order passed by the learned Collector, the learned Commissioner in an appeal allowed the stay application by an order dated 7th February 2025. While granting stay, the Commissioner directed formation of committee of Tahsildar, Kannad, Block Development Officer, Kannad and Deputy Superintendent Land Record, Kannad and directed them to give a report in respect of encroachment allegedly made by the respondent. The petitioner aggrieved by this order and has approached this Court.

4. The learned Advocate Mr. Kingaonkar vehemently argued that there are reports showing that the respondent has committed

encroachment on the public/Government land. There are reports clearly indicating such encroachment. It was not open to the Commissioner to grant stay. In any case, he submits that, there is no question to form committee and further to direct such committee to submit fresh report unless there is case made out on merits. This is a premature stage to pass such an order. He thus prays for quashing and setting aside the impugned order.

5. The learned AGP supports the order by submitting that the learned Commissioner is having discretion to pass such orders. The learned Commissioner has rightly passed the order. He thus prays for rejection of the writ petition.

6. Mr. Kawde, the learned Advocate for respondent No.6 strongly opposed the petition. He submits that it is very much necessary to see that the appeal before the Commissioner does not become infructuous. So far as the clause (iii) of the operative order dated 7th February 2025 is concerned, he submits that a fresh report is very much required in view of three contrary reports by the authorities. He thus prays for rejection of the petition.

7. Since the learned Commissioner has granted stay, this court finds that there is no reason to interfere with the impugned order. So far as grant of stay is concerned, however, at this stage, it is not expected to pass an order of formation of committee and call for report unless on merit case is made out.

8. Needless to say that, the learned Commissioner is at liberty on hearing the parties whether such report is necessary. This Court, therefore, set aside clause (iii) of the order dated 7th February 2025 passed by the learned Commissioner, Chhatrapati Sambhajinagar in appeal bearing No. Gram Panchayat/Appeal-1/Pra.Kra.118.

9. Considering that the matter is in respect of disqualification proceeding, it is expected of the learned Commissioner to decide the same as early as possible and preferably within one months from today.

10. With with, writ petition stands disposed off.

[KISHORE C. SANT, J.]