



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

951 WRIT PETITION NO. 12138 OF 2022

Salman Sattar Shaikh
Age -28 years, Occu. Agri,
R/o. Bembli, Tq. Dist. Osmanabad

...Petitioner

VERSUS

1. The Additional Divisional Commissioner,
Aurangabad
2. The District Collector,
Osmanabad.
3. The Tahsildar,
Osmanabad, Dist. Osmanabad
4. The Block Development Officer,
Panchayat Samiti, Osmanabad
5. The Chief Officer,
Municipal Council, Osmanabad
6. The Principal
Podar International School,
Osmanabad
7. Nitesh @ Nitin S/o Shivaji Ingale,
Age : 38 years, Occu. Agri,
R/o. Bembali, Tq. Dist. Osmanabad

..Respondents

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Mr. S. G. Kawade, Advocate for the Petitioner
Mr. B. B. Bhise, AGP for Respondent Nos.1 to 3/State
Mr. V. D. Patnurkar, Advocate for Respondent No.4
Mr. V. B. Deshmukh, Advocate for Respondent No. 5
Mr. P. S. Chavan, Advocate for Respondent No.6
Mr. S. S. Gangakhedkar, Advocate for Respondent no.7

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CORAM : ROHIT W. JOSHI, J.
DATED : 27th JUNE 2025

ORAL JUDGEMENT :-

1. Respondent no.7 in the present petition was elected as member of Grampanchayat, Village Bembali, Taluka and District Osmanabad. He was thereafter elected as Upa-Sarpanch of the Grampanchayat. The present petitioner filed an application before respondent no.2-Collector, Osmanabad stating that respondent no.7 had three children and was therefore disqualified to be a member of Grampanchayat in view of Section 14(j-1) of the Maharashtra Village Panchayat Act, 1958. On conducting enquiry in the matter respondent no.2-Collector vide order dated 28.07.2022 declared that respondent no.7 had incurred disqualification under the said provision. Respondent no.7 carried the order in appeal before respondent no.1-The Additional Divisional Commissioner, Aurangabad. The learned Commissioner allowed the appeal vide order dated 18.10.2022, which is the subject of challenge in the present petition.

2. The contention of learned counsel for the petitioner is that respondent no.7 is married to one Vidya who is also known as Sanjana. He states that respondent no.7 is blessed with following three children from his wedlock with Vidya (Sanjana):

(1) Shreya (07.08.2006)

(2) Harsh (11.05.2008)

(3) Raj (05.11.2009)

3. The Birth Certificates of Shreya and Harsh show the names of parents as Nitesh and Vidya. The Birth Certificate of alleged third child shows the date of birth as 05.11.2009, however, name of the child is not mentioned in the said Birth Certificate. This Birth Certificate according to the petitioner pertains to third child namely Raj. In this Birth Certificate the name of father is mentioned as Nitin Ingale, however, the name of mother is mentioned as Sanjana Nitin Ingale. The contention of the learned counsel for the petitioner is that Sanjana and Vidya are names of wife of respondent no.7 and according to him these two names i.e. Sanjana and Vidya are the names of the same person.

4. The petitioner has placed reliance on extract of general register of students maintained by Podar International School, Osmanabad. The extract of register refers to all the three children namely Raj, Harsh and Shreya. The names of parents of Raj and Harsha is mentioned as Nitesh and Vidya however, the names of parent of Shreya are mentioned as Nitesh and Sanjana. The learned Counsel for the petitioner contends that at times the mother's name is mentioned as Vidya and at times it is mentioned as Sanjana. Particularly,

referring to the Birth Certificate and school entry of Shreya, he contends that whereas in the Birth Certificate the name of mother is mentioned as Vidya and in the school register name of mother of the same is mentioned as Sanjana. He contends that it is not in dispute that Shreya is daughter of respondent no.7.

5. Respondent No.7 has filed affidavit-in-reply whereby it is admitted that Shreya and Harsh are his children. He has disowned Raj as his child in the reply affidavit. Vide order dated 16.06.2025, respondent no.7 was directed to file affidavit disclosing the particulars of schools in which his children Shreya and Harsh had taken education. Respondent no.6 (Podar International School) was also directed to produce original school records of all the three children for perusal of the Court.

6. Respondent No.7 has filed affidavit which confirms that at the relevant time, i.e. on the date of filing of nomination his children Shreya and Harsh were studying in Podar International School. Page No.65 which is extract of school register is verified from the original register and is found to be in order. The admission file of the three students which is produced for perusal of the Court today will indicate that all the three children had secured admission in Podar

International School on 29.06.2016. Perusal of the register will demonstrate that the name of mother of Shreya was mentioned as Sanjana, however, subsequently the name Sanjana is in circled and besides it Vidya is mentioned. Perusal of admission forms of all the three children i.e. Raj, Harsh and Shreya disclose that they bear signature of the same person as parent. Likewise, there are School Leaving Certificates of all the three children issued by Greenland English Medium Primary School. It will be pertinent to mention that in the Leaving Certificate issued by Greenland English Medium Primary School there is no column for name of mother in the Leaving Certificate of Raj. Serial number of that leaving certificate is mentioned as 180. However, in the Leaving Certificate of Harsh and Shreya there is a column for mother's name. In the Leaving Certificate of Harsh, name of mother is mentioned as Vidya and in the Leaving Certificate of Shreya mother's name is mentioned as Vidya (Sanjana). All the three Leaving Certificates are dated 11.06.2016. All the three students as stated above are admitted in Podar International School on the same date.

7. The learned Counsel for the petitioner submits that with this evidence there is hardly any scope to doubt that Raj is also son of

respondent no.7 and his wife Vidya (Sanjana).

8. As against this, Mr. Gangakhedkar makes a submission that the Competent Authority to decide the issue of disqualification is the Collector, and that it will not be appropriate for a Writ Court to indulge in a fact finding exercise for the first time in exercise of its writ jurisdiction. Without prejudice to his contention that material on record is not sufficient to hold that Raj is also son of respondent no.7, he makes a submission in the alternative at best the matter should be remanded to the Collector for the adjudication of the issue afresh.

9. Having regards to the rival submissions, in my considered opinion it will be appropriate having regard to the scope of the present proceedings that the matter is remanded to the Collector, Osmanabad to decide the issue afresh in the light of additional material that has come on record. Additional material has come on record for the first time in the present petition. It will not be proper to fully assess and appreciate the material for the first time in a writ petition. Hence the following order :-

ORDER

- i. Writ Petition is partly allowed.

- ii. Order dated 18.10.2022 passed by the Additional Divisional Commissioner, Aurangabad is quashed and set aside. The matter is remitted for fresh decision before the Collector, Osmanabad.
 - iii. Parties to appear before the Collector on 03.07.2025. Parties to note that separate notice for appearance will not be issued.
 - iv. The Collector shall make an endeavor to decide the disqualification petition at the earliest and in any case before 15.07.2025.
 - v. If need be, he may call the original papers from Podar International School, Osmanabad for perusal during the course of enquiry.
 - vi. Needless to mention that the observations made, are based on *prima-facie* assessment of the material for the purpose of crystallizing the controversy and the authority shall decide the matter without being influenced by the same.
10. Writ petition is partly allowed.

[ROHIT W. JOSHI, J.]