

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10114 OF 2024

Bhanudas Yashwant Mote

... Petitioner

Versus

The Additional Divisional

Commissioner Pune And Ors

... Respondents

Mr. Gaurav Ugale, *for the Petitioner.*

Mrs. S. A. Prabhune, *AGP for Respondent Nos. 1 and 2-State.*

Ms. Sapna Nikam (*Through V.C.*), *for Respondent Nos.3 and 4.*

CORAM : SANDEEP V. MARNE, J.

DATE : 07 MAY 2025.

P.C. :

1) The Petition challenges order dated 21 February 2024 passed by the Additional Divisional Commissioner, Pune rejecting the Appeal preferred by the Petitioner and confirming the order dated 19 May 2023 passed by District Collector, Sangli. The District Collector had dismissed the Dispute Application preferred by the Petitioner seeking disqualification of Respondent No.4 under provisions of Section 14(1)(h-1) of the Maharashtra Village Panchayats Act, 1959.

2) I have heard Mr. Ugale, the learned counsel appearing for the Petitioner, Ms. Nikam, the learned counsel appearing for

Respondent Nos. 3 and 4 and Ms. Prabhune, the learned AGP appearing for Respondent Nos.1 and 2-State.

3) Disqualification of the fourth Respondent is sought on the ground of he being held liable for recovery of amount after conduct of audit of Gram Panchayat for 2012-2013 and 2013-2014. It however appears that Respondent No.4 has filed Appeal before the District Court challenging the recovery order which is pending. Section 14(1)(h-1) provides for disqualification of member of a Panchayat on the ground of failure to pay amount order to be paid under Section 140 or Section 178 within the stipulated time. However the Section further provides that where Appeal has been made, there must be failure to pay the amount within one month from the date of decision of the Appeal. Section 14(1)(h-1) provides thus:

14(1) No person shall be a member of a panchayat continue as such who -

(h-1) fails to pay the amount of surcharge or charge under Section 140 or the amount ordered to be paid under Section 178 together with interest, if any, within the period provided in that behalf, and where an appeal has been made, then within one month from the date of receipt of the decision rejecting such appeal;

4) In the present case Respondent No. 4 has filed an Appeal. Therefore provisions of Section 14(1)(h-1) would take effect only after the Appeal is decided. In legislature has taken a conscious call to provide for disqualification only after the Appeal is decided. This is possibly done to ensure that election of a democratically elected candidate is not set aside in casual manner by securing an order for recovery of amount till validity of recovery order is determined by a Court of law.

5) It is sought to be contended by Mr. Ugale that an order of recovery would amount to money decree and unless the same is specifically stayed, consequences of such money decree would necessarily follow. While what is being contended by Mr. Ugale may be correct in ordinary circumstances, what is being dealt with in the present case is disqualification of a democratically elected member of Gram Panchayat. The Apex Court has repeatedly held that democratically elected member of a Panchayat cannot be unseated in a casual manner. The remedy for disqualification stems out of provisions of Section 14 of the Village Panchayats Act and unless strict compliance with the said provisions is demonstrated, every action for disqualification must necessarily fail. There is purpose why the legislature has used the expression '*where an appeal has been made, then within one month from the date of the decision rejecting such Appeal*'. Therefore the contention of Mr. Ugale cannot be accepted that in absence of stay by District Court, disqualification must follow on the basis of recovery order made against Respondent No.4. If this contention is accepted, the provision for disqualification coming into effect after expiry of period of one month from the date of decision of Appeal would be rendered otiose.

6) In that view of the matter, I am unable to trace any patent error in the concurrent findings recorded by the Collector and the Additional Divisional Commissioner. The Petition must fail. It is accordingly dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]