

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17346 OF 2024

Dr. Ram Bapu Jethe ... Petitioner
V/s.
The State of Maharashtra and ors. ... Respondents

Mr. Sachin M. Bhavar, Advocate for the Petitioner.

Mr. J. P. Patil, AGP for the State.

CORAM : SANDEEP V. MARNE, J.

Dated : 11 February, 2025.

P.C. :

1. The Petition challenges order dated 14th October, 2024 passed by the Additional Divisional Commissioner, Pune Division allowing the appeal preferred by Respondent No.4 and setting aside order dated 29th July, 2024 passed by Collector, Solapur. The Collector had disqualified Respondent No.6 from being member of Gram Panchayat under provisions of Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1959. Petitioner is aggrieved by the order passed by the Additional Divisional Commissioner setting aside the disqualification order passed by the Collector.

2. I have heard Mr. Bhavar, learned counsel appearing for the Petitioner and Mr. Patil, learned AGP appearing for the State.

3. Notice of Petition is served on Respondent No.6, who has chosen not to appear before the Court.

4. Perusal of the order passed by the Additional Divisional Commissioner would indicate that she has taken into consideration a report showing grant of Government aid for construction of house to the father of Respondent No.6. The Additional Divisional Commissioner has also taken into consideration 'No Objection Certificate' issued by the Gram Panchayat for construction of house by the father of Respondent No.6. Based on these factors, the Additional Divisional Commissioner has refused to record a concrete finding of encroachment on Government land by the father of Respondent No.6. The other aspect is about additional construction allegedly carried out by Respondent No.6 during the process of reconstruction of the house. In my view, this cannot be confused with the ground of encroachment on Government land under Section 14(1)(j) of the Act. As of now, there is no concrete material available for the purposes of interfering that Respondent No.6 or his father have indulged in encroachment on the Government land so as to incur disqualification under section 14(1)(j-3) of the Act. Respondent No.6 is democratically elected member of the Gram Panchayat and he cannot be unseated in a casual manner in absence of any concrete material available on record about encroachment on the Government land by him or his family members. In this regard, observations made by the Apex Court in judgment in *Ravi Yashwant Bhoir Vs. District Collector, Raigad and ors.*¹ are apposite. Petitioner has failed to produce any concrete material for drawal of inference of encroachment by Respondent No.6 on the Government land.

¹ (2012)3 SCR 775

Disqualification of Respondent No.6 cannot be ordered merely on the basis of surmises and conjectures on the basis of the complaint of the Petitioner who unsuccessfully contested election and has preferred to take a route under section 14(1)(j) of the Act for unseating democratically elected member.

5. I therefore do not find any valid ground to interfere in the order passed by the Additional Divisional Commissioner.

6. Writ Petition is devoid of merits. It is accordingly dismissed without any order as to costs.

(SANDEEP V. MARNE, J.)