



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.3011/2024

Ramesh V Div. Commissioner, Amravati and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.A. Zade, Advocate for petitioner.
Mr. S.S. Sheikh, Advocate for respondent no.4.
Mr. Lonare, AGP for respondent no.1 and 2.

CORAM : R.M. Joshi, J.

DATE : 04-07-2025.

By consent of both sides heard finally at the stage of admission.

2. This petition takes exception to the order passed by the Collector, Yavatmal dated 10-08-2023 disqualifying the petitioner from the post of Member of Gram Panchayat under Section 14(I)(j-1) of the Maharashtra Village Panchayats Act, on the ground that the petitioner has third child born on 12-11-2001 i.e after the cut-off date. This order came to be upheld by the Additional Commissioner, Amravati. Hence, this petition.

3. There is no dispute about the fact that the petitioner has three children. It is however his case that the third child is born not on 12-11-2001 but on 12-07-2000. Respondent no.4 made complaint to the Collector informing about the third child of the petitioner being born on 12-11-2001. In support of the

said complaint bonafide certificate issued by the school was relied upon. The Collector after giving hearing to both sides passed order dated 10-08-2023 holding that the petitioner is disqualified under Section 14(I)(j-1) of the said Act on account of having third child after the cut-off date i.e 12-11-2001. It is thereafter the petitioner preferred the proceedings before the J.M.F.C., Yavamal for seeking birth certificate indicating the date of birth to be 12-07-2000. J.M.F.C. in Criminal Misc. Application No.166/2023 passed order dated 04-12-2023 issuing certificate accordingly. After obtaining this certificate, the petitioner sought to canvass before the Divisional Commissioner that in view of the certificate issued by the competent Court, the date of birth of the child must be considered as 12-07-2000 and not 12-11-2001. It is on this ground the order passed by the Collector is sought to be set aside. The Divisional Commissioner refused to accept the said contention and confirmed the order of the Collector. Hence, this petition.

4. Learned Counsel for the petitioner has drawn attention of the Court to the fact that there is a certificate issued by the Magistrate in Criminal Misc. Application No.166/2023

indicating date of birth of third child to be 12-07-2000. It is his submission that once such certificate is issued, it has to be held that the third child was born on 12-07-2000 and thereafter disqualification does not get attracted against the petitioner. He also placed reliance on judgment of the Delhi High Court in case of *Nishant Singhal vs Union of India and others*, reported in *2023 SCC OnLine Del 4239* to contend that it is not open for the other authorities to take exception to the order passed by the competent Court issuing birth certificate.

5. Learned Counsel for the contesting respondent and learned AGP supported the impugned order.

6. There is no dispute about the fact that the petitioner has three children. The third child was admitted by the petitioner himself in the school. He does not dispute that at the time of his admission date of birth of the child was informed to the school as 12-11-2001. This is not the case wherein the date of birth has been communicated by someone else or the school authorities by themselves have entered the said date.

7. Insofar as the age of this person is concerned, primarily the birth certificate would be the best evidence. In

absence thereof, the other evidence such as the school record can be considered by the Court. Here in this case if the birth certificate was there prior to the disqualification of the petitioner, it could have been relied upon. Pertinently, the birth certificate has been applied after he was disqualified. A specific query is made to the petitioner's Counsel as to on what basis the said birth certificate has been issued by the competent Court. A solemn statement is made that on the affidavit filed by the petitioner the certificate came to be issued. Needless to say that the proceedings of issuance of birth certificate are never contested even by the State. The order passed by the JMFC dated 04-12-2023 also confirms the said fact. It is thus clear that the said certificate as been issued not on any other evidence but only on the basis of the statement made by the petitioner. Even if the contention of the counsel for the petitioner is accepted that the said certificate being not challenged till this time will have to be accepted, still the facts remains that it was the petitioner himself who has recorded date of birth of his child while admitting him in the school as 12-11-2001. These are the peculiar facts which distinguishes the facts in the judgment of the

Delhi High Court as such the said judgment has no application to the present case.

8. In the facts of the case, disqualification attracted and confirmed by the Authorities below cannot be faulted with. Hence, the petition stands dismissed.

(R.M. Joshi, J.)