



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

WRIT PETITION NO.4591/2024

Sau. Meena w/o Dilip Gargam

...Versus...

The Additional Commissioner, Nagpur Division, Nagpur and another

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

Court's or Judge's orders

Mr. B.S. Dhandale, Advocate for petitioner
Mrs. D.I. Charlewar, AGP for respondents

CORAM : SACHIN S. DESHMUKH, J.

DATE : 14/08/2025

1. The petitioner raises an exception to the concurrent findings of fact rendered by the Collector at first instance disqualifying the petitioner under Section 14 (1) (j-3) of the Maharashtra Village Panchayats Act, 1959 (for short hereinafter "M.V.P. Act") which is endorsed by the Appellate Court by dismissing the appeal of the petitioner.

2. The petitioner was elected as a Member of the Gram Panchayat. However, on account of construction of house under Gharkul Scheme on the Government land, initially a measurement was carried out by the department of land record then by the Circle Officer and thereafter by the Tahsildar in the presence of husband of the petitioner which sufficiently establishes that there is an encroachment on the part of the petitioner over the Government land to the extent indicated in the said report prepared by the Tahsildar. In order to ensure whether the encroachment committed by the petitioner was removed while constructing the house using the

funds under Ramai Awas Gharkul Yojana, a notice dated 15/04/2021 was issued, but no response was offered by the petitioner in that regard. Subsequently another notice was served upon the petitioner on 26/04/2021, still the petitioner chose not to offer any explanation to both the notices, which entails disqualification under Section 14 (1) (j-3) of the M.V.P Act. Apart from above aspect even the failure to submit an account of election expenses mandated by virtue of Section 14 B of the M.V.P Act was also a ground for disqualification of the petitioner in a complaint.

3. In the light of the report of the Tahsildar proceedings were presented before the learned Collector under Section 14 (1) (j-3) and 14 B of the M.V.P Act seeking disqualification of the petitioner. The Collector while taking into account the report of the Tahsildar and the illegal construction carried out in the premises, as well as the failure of the petitioner to submit the account of election expenses within time due to pandemic allowed the proceeding and disqualified the petitioner for infraction of Section 14 (1) (j-3) of the M.V.P Act and declared the said post as vacant. Aggrieved by the said order of the Collector, the petitioner approached to the Divisional Commissioner by presenting an appeal. It was observed that the failure on the part of the petitioner to offer explanation to the notices for removal of encroachment endorses the fact of encroachment committed by the petitioner and taking into account the report dismissed the appeal endorsing the order of the Collector.

4. The petitioner raises a challenge to the orders

rendered by the Collector vis-a-vis Appellate Authority disqualifying the petitioner under Section 14 (1) (j-3) of the M.V.P. Act and submitted that the complaint lodged is with a political motive. That no proceedings were initiated under any Act for removal of encroachment nor any penalty was imposed, as such, inference of committing encroachment is unfounded. It is further submitted that the property bearing Survey No.339 stands in the name of husband of the petitioner, therefore, there cannot be disqualification of petitioner, as such prayed for allowing the petition.

5. Per contra, learned Counsel for the respondent has supported the order and prayed for dismissal of petition endorsing concurrent findings of fact rendered by fact finding authorities.

6. Having heard the learned Counsel for the respective sides, it is a matter of record that the notices were served upon the petitioner on successive occasions. However, the petitioner has not offered any explanation to those notices. Therefore, the petitioner has had an opportunity to refute the aspect of encroachment. Nevertheless, the measurement was carried out by the Tahsildar in presence of the husband of the petitioner, wherein in an unequivocal manner, the encroachment on the part of the petitioner is recorded.

7. As such, no error could be noted in the concurrent findings of fact recorded by the fact finding authorities while disqualifying the petitioner. So far as the aspect of failure on the part of the petitioner to submit the account of election expenses as mandated by Section 14 B of the M.V.P. Act is concerned, the Collector has taken into account the prevailing

situation of the pandemic of Covid-19, which prevented the petitioner from offering explanation to the Election Commission within a reasonable time. Thus, the Collector has rightly noted that the petitioner has had an opportunity to offer an explanation in relation to encroachment and the petitioner has consciously chosen not to offer any explanation. Coupled with that the detailed report is prepared pursuant to measurement carried out in presence of the husband of petitioner by the Tahsildar unequivocally establishes the encroachment on the Government land by the petitioner. As such, no error could be noted in the concurrent findings of fact in relation to disqualification of the petitioner owing to the encroachment committed by the petitioner. Thus, findings rendered by the authorities below do not warrant any interference. The writ petition is dismissed. No order as to costs.

(SACHIN S. DESHMUKH, J.)