IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11553 OF 2024

Alka Dattatray Papal … Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

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Mr. Mihir Desai i/b. Mr. Balwant Salunkhe, Senior Advocate for the Petitioner.
Mr. Ketan Joshi, 'B' Panel Advocate for the Respondent Nos. 1 to 3- State.

CORAM : R. M. JOSHI, J.
DATED : 19th AUGUST, 2024.

P.C. :

1. Heard.

2. Learned counsel for the petitioner has drawn attention of this Court to the order passed by the Divisional Commissioner who has reversed the orders of collector rejecting application of disqualification of the petitioner. It is his submission that without recording any finding that the petitioner is owner of property or liable to make payment of taxes and the taxes are not paid within the prescribed time, no disqualification could get attracted against her. It is further submission that property in question belongs to her father in law and there is no finding recorded by the Divisional Commissioner to the effect that the petitioner is member of the joint family and hence is also responsible for the payment of the said taxes.

3. Prima facie the order passed by the Divisional Commissioner is contrary to the reports submitted before the Collector which indicate that in fact though the bills were issued on 01.07.2021, there is no evidence to indicate the date on which it was served. There is no dispute about the fact that the bill once raised become payable within a period of three months. In absence of any finding being recorded on above two counts prima facie case is made out to stay order impugned. Hence, there shall be stay to the impugned order dated 05.08.2024 passed by the Divisional Commissioner in proceedings under Section 14(1)(h) read with 16 of the Maharashtra Village Panchayat Act, 1959 till further order.

4. Learned AGP has made submission with regard to the imposing restrictions on the petitioner to work as sarpanch. This Court is however is of prima faice view that for want of any apparent reason indicating the liability of the petitioner to pay taxes either individually or in capacity of member of joint family, no disqualification would get attracted against her. Hence, this is not a case, where any restrictions are to be imposed against her.

5. Issue notice to the respondents, returnable on **20th September, 2024.**

6. Mr. Joshi, 'B' Panel Advocate waives service of notice of respondent Nos. 1 to 3-State.

(R. M. JOSHI, J.)

SONALI SATISH KILAJE Digitally signed by SONALI SATISH KILAJE Date: 2024.08.20 14:25:59 +0700