

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1303 OF 2015

Bharatkumar S/o Bansilal Nahata

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mr.R.N.Dhorde, Sr. advocate
with V.R.Dhorde, advocate for the petitioner
Mrs.A.V.Gondhalekar, AGP for Respondent State

CORAM : R.M. BORDE &
P.R. BORA, JJ

Dated : 3rd February, 2015.

PER COURT :-

1 The petitioner has been disqualified from continuing to hold elected office of councilor of Municipal Council, in view of order passed by the District Collector, Ahmednagar, under section 44(1) (e) of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965. An appeal tendered by the petitioner to the State Government is stated to be pending.

2 The petitioner contends that, prima facie, the provision of section 44(1)(e) of the Act of 1965 is not attracted, since the alleged construction has not been done by him, in his individual

capacity or for his dependents, nor there is any allegation that the petitioner is directly or indirectly responsible for raising such a construction, in the application tendered by the complainant before the Collector. The petitioner contends that, reference to “carrying out such illegal or unauthorized construction”, in section 44(1)(e) shall be construed as construction carried out by councilor himself, his spouse or dependents and is not referable to the alleged construction carried out by the Cooperative society. The petitioner has also, on behalf of the Society, submitted an application for regularisation, after receipt of the notice from the Municipal Council, which is stated to be pending and resultantly, the proposed action shall be deemed to have been stayed.

3 Without going into the merits of controversy involved in the matter, since substantial appeal is stated to be pending before the Government, we deem it appropriate to dispose of the instant petition, with a direction to the Government to take decision on the said appeal as expeditiously as possible and preferably within a period of three months from today.

4 In the meanwhile, the operation and implementation of the impugned order passed by the Collector shall stand stayed.

5 At the request of learned counsel appearing for the petitioner, names of respondent Nos. 4 and 5 stand deleted.

6 Writ petition is disposed of.

7 Hamdast allowed.

(P.R. BORA, J)

(R.M.BORDE, J)

vbd