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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2087 OF 2015

- 1 Trimbak Nivrutti Murkute,
 Age : 60 years, Occupation : Agriculture.
- 2 Mahananda Vyankati Kokare,
 Age : 35 years, Occupation : Household.
- 3 Vimal Yadav Khulkhule,
 Age : 30 years, Occupation : Agriculture.
- 4 Urmila Bhaskar Murkute,
 Age : 27 years, Occupation : Household.

All R/o Sirsam (She), Taluka Gangakhed,
District : Parbhani.

..PETITIONERS

-Versus-

- 1 The State of Maharashtra.
 Through it's Principal Secretary,
 Rural Development Department,
 Mantralaya, Mumbai-32.
- 2 The Collector,
 Parbhani, District Parbhani.

..RESPONDENTS

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Mr.PD. Bachate, Advocate for the Petitioners.
Mr.K.M. Suryawanshi, AGP, for the Respondent Nos.1 and 2/State.

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 26th February, 2015

P.C.:

1 I have heard the learned Advocate for the Petitioners and the learned AGP at length.

2 The issue is as regards the applicability of Section 14B of the Maharashtra Village Panchayats Act (for short “MVP Act”), which reads as under:-

“14B. Disqualification by State Election Commission:-

(1) If the State Election Commission is satisfied that a person, –

(a) has failed to lodge an account of election expenses within the time and in the manner required by the State Election Commission, and

(b) has no good reason or justification for such failure,

the State Election Commission may, by an order published in the Official Gazette, declare him to be disqualified and such person shall be disqualified for being a member of Panchayat or for contesting an election for being a member for a period of five years from the date of this order.

(2) The State Election Commission may, for reasons to be recorded, remove any disqualification under sub-section (1) or reduce the period of any such disqualification.”

3 The facts of this case in brief are as under:-

(a) All the Petitioners have been elected as members of the Village Panchayat, Sirsam (She), Taluka Gangakhed, District Parbhani, on 27.11.2012.

- (b) The Petitioners were under an obligation to lodge an account of election expenses within 30 days from the date of their election.
- (c) Section 14B indicates that failure on the part of the elected candidate to lodge such election expenses account within the time frame and in the manner required, will result in disqualification of the said member.
- (d) The Petitioners received the show cause notice directing them to submit their explanation as regards their failure to lodge accounts of election expenses and remain present for a hearing before the District Collector, Parbhani on 24.12.2014.
- (e) The Petitioners contended that they have lodged their accounts of election expenses with the Tahasildar.
- (f) The report of the Tahasildar, Gangakhed dated 24.12.2014 indicated that the Petitioners had not submitted their accounts of election expenses.
- (g) Since only one Petitioner remained present on 24.12.2014, the District Collector adjourned the hearing to 26.12.2014, on which date all the Petitioners remained present.
- (h) By the impugned order dated 06.01.2015, the District Collector, in the light of the order of the State Election

Commission dated 19.11.2010 and in the light of Section 14B of the MVP Act, concluded that the Petitioners stand disqualified for having failed in lodging accounts of election expenses.

4 The Petitioners, namely, Trimbak Nivrutti Murkute, Mahananda Vyankati Kokare, Vimal Yadav Khulkhule and Urmila Bhaskar Murkute, submit that they have filed their expenditure statements in accordance with law. They further submitted that the Tahasildar, Gangakhed has subsequently filed a report, signed on 09.02.2015 before the District Collector, Parbhani that he had erroneously stated that the Petitioners had failed to lodge their accounts of election expenses. By the report dated 09.02.2015, he has confirmed that the Petitioners have lodged their accounts of election expenses.

5 The learned AGP appearing on behalf of the Respondent/ State, confirms the said statement. He points out the said report at page 52 of the petition paper book, which is dated 09.01.2015, but signed on 09.02.2015.

6 Though it is evident that the District Collector, Parbhani has

delivered the impugned order dated 06.01.2015 in the light of the submissions of the Tahasildar, Gangakhed, the subsequent report dated 09.02.2015 filed by the Tahasildar, Gangakhed indicates that the Petitioners had submitted their accounts along with their affidavits. The Tahasildar, Gangakhed has specifically written the names of four Petitioners in the said report.

7 In the light of the above, in my view, it would be a travesty of justice if the subsequent report of the Tahasildar dated 09.02.2015 is found to be factually correct as the four Petitioners, who have been democratically elected, have been disqualified on account of an alleged erroneous/ inadvertent statement of the Tahasildar, Gangakhed. Their disqualification in the face of the report dated 09.02.2015, would be rendered unsustainable.

8 Nevertheless, it needs to be inquired into as to what prompted the Tahasildar, Gangakhed to submit his report dated 09.02.2015 after the District Collector, Parbhani had delivered his order on 06.01.2015.

9 In the light of the above, I am partly allowing this Writ

Petition and setting aside the impugned order dated 06.01.2015 passed by the District Collector, Parbhani on the following conditions:-

- (a) The learned District Collector shall reconsider the case of the Petitioners under Section 14B of the MVP Act afresh.
- (b) The report of the Tahasildar, Gangakhed dated 09.01.2015, signed on 09.02.2015, which is at page 52 of this petition paper book, shall be placed before the District Collector, Parbhani.
- (c) The District Collector shall investigate into the reasons behind the earlier statement of the Tahasildar, Gangakhed dated 24.12.2014 and shall also consider the truthfulness of the subsequent report bearing the signature of the Tahasildar, Gangakhed and the date 09.02.2015 mentioned there below.
- (d) The District Collector shall also look into the accounts of election expenses purportedly filed by the Petitioners within 30 days from the date of their elections and whether, such accounts are supported with their individual affidavits required to be filed in the manner as has been prescribed by the order of the State Election Commission dated 19.11.2010 and Section 14B of the MVP Act.
- (e) Needless to state, the District Collector shall decide the cases

of the Petitioners in accordance with law and on their merits, without being influenced by his observations made in the earlier order dated 06.01.2015.

- (f) Further and needless to state, if the District Collector comes to a conclusion that the subsequent report of the Tahasildar, Gangakhed is not genuine, he shall accordingly, initiate appropriate action against those responsible for the same.
- (g) No order as to costs.

(RAVINDRA R. GHUGE, J.)