

IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 2827 OF 2015

Prema Sudhir Patil ... Petitioner

Versus

The State of Maharashtra
& others ... Respondents

.....
Mr. R.N. Dhorde, Sr. Advocate holding for
Mr. V.R. Dhorde, Advocate for petitioner
Mr. K.M. Suryawanshi, AGP for respondent No. 1
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 10th MARCH, 2015

PER COURT :

1. This matter was mentioned at 1.30 pm by Shri V.R. Dhorde, learned Advocate for the petitioner, expressing grave urgency in the light of the fact that the election to the position of President Osmanabad Municipal Council is scheduled on 11-03-2015 at 11.00 am. The petitioner is one of the contesting candidate for the said position.

2. While considering the request for urgent circulation today itself, I called upon the learned AGP as to whether he would be in a position to make his submissions. Since the learned AGP had

no objection and was prepared to go on with the matter, I granted circulation to the petitioner today on the production board.

3. Leave to correct sentence at line No. 3 in paragraph 2 on page No. 5 and the sentence at line No. 4 in paragraph 6 on page No. 7 of the memo of the petition. Correction to be carried out forthwith.

4. Shri R.N. Dhorde, learned Sr. Advocate has set out certain dates and events which are as under :-

a) By communication dated 03-02-2011, the Town planning department of Osmanabad intimated the District Collector, Osmanabad (Respondent No. 5) as regards instances of encroachment and construction beyond the permission granted on the part of respondent No. 4.

b) By communication dated 04-02-2011, the Chief Officer, Municipal Council, Osmanabad- respondent No. 2 herein intimated the District Collector, respondent No. 5 about the illegal construction / encroachment at the hands of the father of respondent No. 4.

c) By communication dated 17-02-2011, respondent No. 5 Collector informed respondent No. 2 that the latter shall submit a report as regards the illegal construction and the action initiated against such illegal construction.

d) By communication dated 26-06-2012, a show-cause notice has been issued to the 4th respondent calling upon him to explain as to why action should not be initiated against him under section 55-B of the The Maharashtra Municipal Councils Nagar Panchayats & Industrial Townships Act, 1965 Act, (said Act) .

e) The Division Bench of this Court by order dated 01-10-2012 in Writ Petition No. 8028 of 2012 preferred by the 4th respondent, permitted him to file his reply to the notice and with the said observation, disposed off the petition.

f) Notice of hearing dated 08-07-2013 was issued to the 4th respondent.

g) On 02-03-2015, the election programme for filling in the position of President of Osmanabad Municipal Council was declared in the light of the resignation of the incumbent President Shri Sunil H. Kakade.

h) The petitioner and respondent No. 4 are the contesting candidates.

i) Elections are scheduled on 11-03-2015 at 11.00 am.

5. Shri Dhorde, therefore, submits that the 4th respondent is subjected to proceedings under section 55-B of the said Act which are likely to result in his disqualification. There is every likelihood that by incurring disqualification, he would not be in a position to continue either as a member or as a President of the Municipal

Council, Osmanabad. However, the 4th respondent has been successfully delaying the proceedings under Section 55-B. The State, therefore, deserves to be directed to complete the said proceedings as expeditiously as possible and preferably within a period of four weeks from today.

6. The learned AGP appearing on behalf of respondent Nos. 1, 3 and 5 submits that the proceedings pending before the appropriate authorities have been progressing. Nevertheless, the said proceedings could be conducted within a particular time frame. However, the State assembly is presently in session and as such, time of at least twelve (12) weeks need to be granted since all the litigating sides are to be heard by giving them a reasonable opportunity.

7. In the light of the statement made above, I am disposing off this petition without formally issuing notices to the respondents. The respondent No. 1 State can conduct the proceedings against the 4th respondent under Section 55-B of the said Act by giving the litigating sides reasonable opportunity of hearing.

8. Shri Dhorde further submits that the last hearing that took place according to the information of the petitioner, had been on

04-07-2013 and since then it appears that there has been no hearing in the matter.

9. In the light of the above, this petition is disposed off by taking into account the statement of the learned AGP. As such, respondent No. 1 shall issue notice of hearing to respondent No. 4 and all the litigating sides in the pending proceedings under Section 55-B of the Act.

10. The first respondent shall therefore, conduct the said proceedings as expeditiously as possible and preferably within a period of fourteen (14) weeks from today, if not already decided.

11. Since the election programme has been declared and the election is scheduled on 11-03-2015, I am not inclined to cause any interference either with regard to the respondent No. 4 contesting the elections or with regard to the holding of elections on 11-03-2015.

(**RAVINDRA V. GHUGE, J.**)