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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5588 OF 2015

Mangala Barku Marathe

PETITIONER

VERSUS

Prafulla Yadvrao Borse & others

RESPONDENTS

WITH

WRIT PETITION NO.5589 OF 2015

Dagdu Ramchandra Bhil

PETITIONER

VERSUS

Prafulla Yadvrao Borse & others

RESPONDENTS

.....

Mr. Amol S. Sawant, Advocate for the petitioners
Mr. S. P. Daund, AGP for respondent State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 20th JULY, 2015

ORDER :

1. These petitions have been moved by the persons who have been considered to be disqualified under section 14 (h) of the Maharashtra Village Panchayat Act, 1958, alleging non payment of tax bill amounts, within the prescribed period, referred to under the same.

2. While initial order has been passed by this Court on 7th July, 2015, following submissions had been advanced and

recorded thus -

"1. Learned counsel appearing for the petitioner points out that despite service, respondents no.1 and 2 who, according to petitioner, are acting hand in glove are not before this court. It is vehemently submitted that though the bills were prepared on 8-7-2013, the same were served on husband of the petitioner in writ petition No.5589 of 2015 only 18-10-2013. Thereafter within the period expected as per the provisions of the Maharashtra Village Panchayats Act, 1958 the amounts under the bills towards tax have been paid by the petitioners on 09-11-2013 and 31-10-2013 respectively.

times

2. He submits, no disqualification can be said to have been incurred by petitioners at all and the proceedings before the Collector regarding disqualification had been proceeded with ex-parte and as such, the appeals had been filed only to the extent of getting ex-parte orders set aside and no details as aforesaid have been referred to in the memoranda of the appeals."

3. Learned advocate for the petitioners submits that notings on the proceeding sheet of the Collector would indicate that the petitioners can hardly be said to have been served at any

pointwp5588 of time before orders dated 29th March, 2014 had been passed. Since these contentions remain uncontroverted, submissions on behalf of the petitioner that proceedings having went *ex-parte* at the initial stage before the Collector carry a lot of substance and force.

4. This court, therefore, had directed record and proceedings be produced. Pursuant to the same, a receipt book has been produced, which depicts that bills were prepared on 8th July, 2013. The submission on behalf of the petitioners that, the receipts were served on them on 9th November, 2013 and 13th November, 2013 have not been met with. However, that is a matter to be examined by the proper authorities. The other contention is that the matter before the Collector had been proceeded with *ex-parte*. Said submission also as on the date, has not been controverted, despite respondents being served twice.

5. In view of aforesaid and havinwp5588g regard to submissions on merits, which do not find place in the order passed by the Commissioner, I think it appropriate that facts be verified. As such, the impugned orders dated 29th March, 2014 passed by Additional Collector, Dhule and dated 20th March, 2015

passed by Additional Divisional Commissioner, Nashik are set aside. The matters stand remanded to Additional Collector, Dhule for reconsideration of the Gram Panchayat Dispute Applications being No. 8 of 2014 and 9 of 2014.

6. Additional Collector, Dhule, to hear the parties concerned and by giving adequate and proper opportunities and having regard to the facts and law, pass order on merits, without getting influenced by the observations made hereinbefore in this order.

7. Writ petitions, as such, stand disposed of.

[SUNIL P. DESHMUKH, J.]