

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

WRIT PETITION NO. 7420 OF 2015

Kailash S/o Santosh Choudhari,
Age: 35 years, Occu.: Agri.,
R/o Lohara, Tql. Pachora,
Dist. Jalgaon

...PETITIONER

versus

1. The State Election Commission,
Maharashtra States, Mumbai.
2. Returning Officer,
Village Panchayat Lohara,
General Election-2015
Tal. Pachora, Dist. Jalgaon.
3. Shantaram Dagdu Beldar,
Age: 35 years, Occu. Agril.,
R/o Lohara, Tql. Pachaora,
Dist. Jalgaon.
4. The State of Maharashtra,
Through Principal Secretary,
Rural Department,
Mantralaya, Mumbai

...RESPONDENTS

.....

Mr. Paresh B Patil, Advocate for Petitioner
Mr. S.T. Shelke, Advocate for respondents No.1 and 2
Mr. R.S. Deshmukh, Advocate for respondents No. 3
Mr. S.K. Tambe, A.G.P. For respondent No. 4.

.....

CORAM : SUNIL P. DESHMUKH, J.

DATED : 24th JULY, 2015

ORAL JUDGMENT :-

1. Leave to amend.
2. Rule. Rule made returnable forthwith. Heard the learned counsel for parties finally, with consent.

3. Petitioner's nomination had been rejected on the ground that he had been disqualified by the collector under order dated 27-05-2013 for a period of five years from the date of order for non submission of accounts within prescribed period in respect of expenses for election to membership of Zilla Parishad. The collector under the order disqualified the petitioner from continuing to be member or to contest the election of membership to Zilla Parishad for a period of five years from 27-05-2013. Said order was the subject-matter of challenge before the Commissioner and the Commissioner under order dated 15-11-2013, had reduced the period of disqualification from five years and had made the same to be co-terminus with the term of Zilla Parishad. Both the orders were passed by concerned authorities in exercise of powers and with reference to section 15B and Section 62 of the Maharashtra Zilla Parishads and Panchayat Samittis Act, 1961 (hereinafter "Z.P. Act").

4. Learned counsel for petitioner contends that said disqualification is not at all referable to section 14B of Maharashtra Village Panchayats Act, 1958 (hereinafter "Act of 1958") and, as such, order rejecting nomination is illegal and unsustainable. Learned counsel for the petitioner contends that disqualification is analogous to penalty for extraneous considerations.

5. Learned counsel for respondents purport to contend that elections to membership of Zilla Parishad were in respect of area *inter-alia* comprising village Lohara as well and, as such, broader and proper view be taken. However, learned counsel for respondents are not in a

position to dispute the contention of petitioner that disqualification under orders of collector and commissioner is not at all referable to section 14B of the Act of 1958.

6. Section 14B (1) of the Act of 1958 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 member for a period of five years from the date of this order.”

7. Since disqualification has not been incurred under the Act of 1958 and orders passed by the collector and Commissioner referred to hereinabove do not disqualify petitioner from contesting election to Gram Panchayat, I deem it appropriate that impugned order be set aside.

8. Accordingly, writ petition is allowed in terms of prayer clauses “B” and “C” and disposed of.

9. Rule is made absolute accordingly.

Sd/-
(SUNIL P. DESHMUKH, J.)