IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7496 OF 2015

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Kailash Chandu Kamble,
Age-45 years, occu-Agri.
R/o Village Lohara, Tq.
Paranda, Dist. Osmanabad. ...PETITIONER

versus

1. The State of Maharashtra,
Through: Its Secretary,
Rural Development Department,
Mantralaya, Mumbai 400 032.

2. The State Election Commission,
Maharashtra State , Mumbai
At Mumbai

3. The District Collector,
Osmanabad, At Osmanabad.

4. The Tahsildar,
Paranda, at Paranda,
Dist. Osmanabad.

5. The Returning Officer,
Election for the village
Lohara Village Panchayat
Lohara, Tq. Paranda,
Dist. Osmanabad.

6. Bhimrao Madhavrao Bhosale,
Age: 55 years, occu. Agri.,
R/o : Village Lohara, Ta. Paranda,
Dist. Osmanabad ...RESPONDENTS

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Mr. D.B. Thoke, Advocate for Petitioner
Mr. S.P. Daund, A.G.P. For respondents No. 1, 3 and 4
Mr. S.T. Shelke, Advocate for respondents No.2 and 5
Mr. V.D. Salunke, Advocate for respondent No. 6.

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 31st JULY, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard the learned counsel for parties finally, by consent.

2. The petitioner – objector has taken objection to the nomination of respondent No. 6 with reference to default in payment of tax in respect of house property No. 133 for the period 2010-2014 as would be seen from certificate dated 21-07-2015 issued by Gramsevak of Gram Panchayat, Lohara (Kh). The petitioner contends that having regard to the disqualification referred to under section 14 (1) (h) of the Maharashtra Village Panchayats Act, 1958 (hereinafter "the Act") respondent No. 6 stands disqualified, him being in arrears of tax to the tune of Rs. 2320/- in respect of house property No. 133.

3. Learned counsel for the petitioner submits that written objection in this respect had been taken before the returning officer, however, the same has been erroneously overruled. He contends that once it emerges on record that respondent No. 6 was in arrears, he incurs disqualification.

4. Learned counsel appearing for respondent No. 6, in particular, along with other learned counsel appearing for respondents No. 2 and 5 and learned Assistant Government Pleader for respondents No. 1, 3 and 4 submit that mere default or for that matter falling in arrears would not incur any disqualification under statutory provisions as contained in the

Act. They refer to the phraseology used under section 14 (1) (h) of the Act. Relevant extract of said provision is reproduced below:

> *"**14. Disqualifications-** (1) No person shall be a member of Panchayat continue as such, who-*
>
> *(a) ...*
>
> *(b) ...*
>
> *(c) ...*
>
> *(d) ...*
>
> *(e) ...*
>
> *(f) ...*
>
> *(g) ...*
>
> *(h) fails to pay any tax or fee due to the Panchayat [or the Zilla Parishad within three months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him; or]"*

5. Learned counsel for respondent No. 6 emphasizes that only in case demand and proof of service of bill on the tax payer and non payment after the same may incur disqualification and that is the intention underlying the provision. A simple declaration as is appearing under certificate would not be sufficient to disqualify a person unless circumstances referred to under section 14 (1) (h) are satisfied, namely, demand and service of bill. In the present case, it is not a case of the petitioner that any such circumstances were there.

6. It is further being submitted that there is neither demand nor service of any bill. In such a case, section 14(1)(h) is not attracted at all in the present case. Learned counsel, therefore, submits that no fault can be found with the impugned order.

7. Having regard to aforesaid undisputed facts, there is no demand nor there is any service of bill on respondent No. 6 about tax payment in respect of house property No. 133, objection by the petitioner appears to be untenable.

8. Writ petition, as such, stands dismissed. Rule stands discharged.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK