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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8205 OF 2015

Pramilabai w/o Mahadu Patil
Age - years, Occ - Household
R/o Sadavan (Bk), Taluka - Amalner
District - Jalgaon

PETITIONER

VERSUS

1. The State of Maharashtra
through Secretary,
Rural Development Department,
Mantralaya, Mumbai - 32
2. The Additional Divisional Commissioner,
Nashik Division, Nashik
District - Nashik
3. The Collector, Jalgaon,
District - Jalgaon

RESPONDENTS

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Mr. Anant R. Devakate, Advocate for the petitioner
Mr. S. K. Kadam, AGP for respondent State

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WITH
WRIT PETITION NO.8250 OF 2015

Dnyaneshwar Bhoma Patil
Age - 34 years, Occ - Agriculture
R/o Sadavan (Bk), Taluka - Amalner
District - Jalgaon

PETITIONER

VERSUS

1. The State of Maharashtra
through Secretary,
Rural Development Department,
Mantralaya, Mumbai - 32
2. The Additional Divisional Commissioner,

RESPONDENTS

Nashik Division, Nashik
District - Nashik

3. The Collector, Jalgaon,
District - Jalgaon

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Mr. Anant R. Devakate, Advocate for the petitioner
Mr. V. G. Shelke, AGP for respondent State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 10th AUGUST, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. The petitioners are before this court against orders dated 15th May, 2015 whereunder their appeals against orders passed by Collector, Jalgaon dated 17th January, 2014, stand dismissed in default.
3. The petitioners are elected members of Gram Panchayat Sadavan (Bk), Taluka - Amalner, District - Jalgaon. The petitioners stand disqualified pursuant to section 14 (1) (j-5) of the Maharashtra Village Panchayats Act, under the orders of the Collector, referred to herein above, against which appeals have been preferred pursuant to provisions of section 16 of the Maharashtra Village Panchayat Act.

4. Learned advocate for the petitioners submits that the absence on the date on which the impugned orders have been passed, was not intentional and the same was accidental. He further submits that the orders of disqualification passed by the collector are penal and serious in nature causing grave prejudice to them and as such, their appeals deserve to be heard on merits. He, therefore, urges to allow the writ petitions.

5. Mr. S. K. Kadam and Mr. V. G. Shelke, learned AGPs appearing for the respondents, point out various dates on which the matters have been kept lingering on for purpose of arguments and quite a few dates were skipped to be attended. In such a case, they submit that the Commissioner – the appellate authority had no alternative but to dismiss the appeals.

6. Looking at that, as yet no new members have replaced the petitioners and that the petitioners undertake that they would scrupulously follow schedule given by the commissioner, in order to see that the petitioners would get an opportunity of being heard and in that sense rules of natural justice would be seen to be followed, I deem it appropriate set aside the impugned orders, subject to payment of costs of Rs.2,500/- each. Costs be deposited by each of the petitioner in the government treasury

within a period of two weeks from today.

7. As such, the impugned orders are set aside. Appeals filed by the petitioners are restored. The petitioners shall abide by the schedule given by the appellate authority. The Commissioner, having regard to subject matter, may expeditiously dispose of the appeals, preferably within a period of thirty days from the date of receipt of writs of this order. The petitioners shall appear before the commissioner - appellate authority on 24th August, 2015 and thereafter shall abide by the schedule given by the commissioner.

8. Writ petitions, as such, stand allowed. Rule is made absolute in aforesaid terms with costs as referred to above.

9. Parties to act upon authenticated copy of this order.

[SUNIL P. DESHMUKH, J.]