

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10750 OF 2014

Anil S/o Balasaheb Aher

PETITIONER

VERSUS

The Additional Divisional Commissioner
Aurangabad and others

RESPONDENTS

Mr.S.S.Thombre, Advocate for the petitioner.

Mr.K.M.Suryawanshi, AGP for respondent Nos. 1 to 3.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/03/2015

PER COURT :

1. The petitioner is aggrieved by the order of disqualification passed by the Additional Collector, Aurangabad on 08/07/2014 whereby it is held that the petitioner has incurred the disqualification to continue as a Sarpanch of the concerned Gram Panchayat u/s 14(1)(g), (h) and (j)(5) of The Maharashtra Village Panchayat Act.

2. The petitioner questioned the conclusions of the Additional Collector by preferring an appeal CR-71-2014-A before the Additional Divisional Commissioner, Aurangabad. An application for interim order in the nature of stay to the decision of the Additional Collector was also filed.

3. The Additional Divisional Commissioner, Aurangabad, while entertaining the appeal u/s 16, had heard the litigating sides on 23/09/2014 and reserved the said application for orders. The matter stood over to 29/10/2014. It then got adjourned to 05/11/2014 when the impugned order rejecting the application for stay had been passed.

4. The vehement contention of the petitioner is that the Additional Commissioner had kept the application for stay open to hearing as is evident from the Roznama placed on record. Thereafter, no arguments were heard on 29/10/2014 and 05/11/2014. The impugned order, rejecting the said application, has been passed without hearing the petitioner.

5. Learned AGP appearing on behalf of respondent Nos.1 to 3 submits that notwithstanding the rejection of the application for stay, the appeal preferred by the petitioner is pending adjudication. If the petitioner appears before the Additional Divisional Commissioner on a given date and advances his final submissions, the appeal could be decided expeditiously. With the passage of time, no purpose would be served by permitting the application for stay to be heard when the appeal itself could be decided. Learned Advocate for the petitioner is agreeable to the said suggestion.

6. In the light of the above, this petition is disposed of with the following directions :-

- (a) The petitioner shall appear before the Additional Divisional Commissioner, Aurangabad on 26/03/2015 at 3.00 p.m.
- (b) Additional Divisional Commissioner, Aurangabad shall issue notice to the Taluka Development Officer, Panchayat Samiti, Vaijapur, the Gram Sevak, Gram panchayat Pendephall, Tal.Vaijapur, Dist. Aurangabad and respondent No.5 herein informing them that the hearing is posted on 26/03/2015.
- (c) The petitioner is at liberty to submit written notes of submissions / arguments as well as address the mind of the Additional Divisional Commissioner, Aurangabad.
- (d) The petitioner and the litigating sides shall abide by the dates of hearing, as may be posted by the Additional Divisional Commissioner, Aurangabad.
- (e) The Additional Divisional Commissioner, Aurangabad shall hear and decide case No. CR-71-2014-A, as expeditiously as possible and preferably within a period of 6(six) weeks from 26/03/2015.

7. Needless to state, the Additional Divisional Commissioner, Aurangabad, while deciding the appeal on its merits, shall not be influenced by his observations set out in the impugned order dated 05/11/2014.

(RAVINDRA V. GHUGE, J.)