

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

WRIT PETITION NO. 11563 OF 2014

Shri Deoram Krushna Rane
& others

... Petitioners

Versus

The Collector & another

... Respondents

.....
Mr. Amarjitsing B. Girase, Advocate for petitioners
Mr. D.R. Korde, A.G.P. for respondent No. 1 / State
Mr. Rajendra Deshmukh, Advocate for respondent No.2
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 30th JANUARY , 2015

PER COURT :

1. This Court had on 17-12-2014, passed an order while issuing notice to the respondents. The said order is as under :-

“1. Contention of the petitioners are that they have been elected as Councilors, as independents, without any affiliation of membership with any political party or any pre-poll or post-poll alliance. After having been elected as the Councilors on 12-12-2011 to the Yawal Municipal Council, they participated in the election to the post of President of the said Municipal Council on 19-07-2014 and voted in favour of Shri Shashank Deshpande, who was eventually returned as the President of the said Municipal Council.

2. A public notice was published in Daily Lokmat and other news papers dated 27-07-2014, by respondent No. 2 herein, claiming to be the head of Yawal Sahar Vikas Aghadi (“Aghadi”) alleging that the petitioners had violated the instructions issued by the

said Aghadi, despite being members of the said Aghadi and therefore, their conduct invites disqualification.

3. The petitioners replied to the said notice by calling upon respondent No. 2 to indicate whether the petitioners had ever become the members of the said Aghadi and whether they were inducted or co-opted as members.

4. Without supplying any documents or information, respondent No. 2 preferred Disqualification Petition No. 19 of 2014, under Section 3(1) (b) of the Maharashtra Local Authorities Members' Disqualification Act, 1986 read with Rule 6 of the Maharashtra Local Authorities Members' Disqualification Rules, 1987, before the Collector, Jalgaon.

5. The petitioners, prior to filing their reply, moved an application dated 03-12-2014, requesting for necessary documents and papers so as to be able to prepare their say. They, therefore, prayed for directions to be issued to the applicant – respondent No. 2 herein, to produce documents mentioned in paragraph No. 6A of the said application.

6. By the impugned order dated 03-12-2014, the Collector has rejected the said application.

7. The petitioners draw my attention to the impugned order, which is in Marathi, as " अर्ज नामंजूर " (Application rejected). Grievance is that the applications runs into three pages and specific contentions have been set out therein to indicate that the petitioners had never become the members of the said Aghadi and, therefore, were not bound by any order or whip issued by the said Aghadi. The said application was dealt with by a two worded order.

8. In the light of the above, issue notice before admission to the respondents returnable on 19-01-2015.

9. *Learned A.G.P. waives service for respondent No. 1.*

10. *Till the next date of hearing, the Collector, Jalgaon shall not proceed without the Disqualification Application No.19 of 2014.”*

2. Shri Deshmukh, learned Advocate appearing on behalf of respondent No. 2 submits that, even the second respondent was not heard, when the impugned order dated 03-12-2014 was passed. He further submits that some of the documents as sought by the petitioners have already been filed and there are few other documents demanded by them, which may not either be in-existence or respondent No. 2 may not be in a position to produce them. Ends of justice would be met if the said application dated 03-12-2014 filed by the petitioners is heard afresh and the rival parties are given an opportunity to address the mind of the Collector, Jalgaon.

3. In the light of the above, the impugned order dated 03-12-2014 is quashed and set aside. The learned Collector, Jalgaon is directed to permit respondent No. 2 to file its say on the application dated 03-12-2014 filed by the petitioners. Thereafter, the learned Collector shall hear the parties on the said application and decide the same on its own merits.

4. It is expected that the said application shall be decided as expeditiously as possible by the learned Collector, Jalgaon and preferably on or before the 27th February, 2015. The parties to the dispute shall cooperate and shall not seek unnecessary adjournments so as to enable the Collector, Jalgaon to decide the said application as directed here-in-above. The rival parties shall appear before the concerned authority on 10-02-2015 at 3.00 pm.

5. The petition is accordingly partly allowed.

(**RAVINDRA V. GHUGE, J.**)