

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11424 OF 2015

Sou. Gauri S. Musale	..	Petitioner
VS.		
The Collector, Kolhapur & Ors.	..	Respondents.

WITH
WRIT PETITION NO. 11425 OF 2015

Sou. Malubai G. Kale	..	Petitioner
VS.		
The Collector, Kolhapur & Ors.	..	Respondents.

WITH
WRIT PETITION NO. 11438 OF 2015

Ramesh S. Patil	..	Petitioner
VS.		
The Collector, Kolhapur & Ors.	..	Respondents.

WITH
WRIT PETITION NO. 11439 OF 2015

Sou. Chaya Anil Kale	..	Petitioner
VS.		
The Collector, Kolhapur & Ors.	..	Respondents.

Mr. Anand Patil for Petitioners.
Ms M. S. Bane – 'B' Panel Counsel for Respondents in Writ
Petition Nos. 11424 and 11425 of 2015.
Mr. A. R. Metkari – AGP for Respondents in Writ Petition Nos.
11438 and 11439 of 2015.

CORAM : M. S. SONAK, J.
DATE: 20 NOVEMBER 2015

P.C. :-

- 1] **Not on board. Upon production, taken on board.**
- 2] At the request of the learned counsel for the Petitioners, leave is granted to delete the Respondent No. 4 in each of these petitions. Necessary amendment to be carried out forthwith.
- 3] Rule in each of the Petitions. With the consent of the learned counsel for the Respondents, Rule is made returnable forthwith.
- 4] The challenge in all these petitions is to the orders made by the Additional Commissioner, Pune, declining interim relief in the matter of disqualification of the Petitioners, during the pendency of appeals before the Additional Commissioner. The disqualification was on the purported ground that the Petitioners had failed to lodge their returns with regard to election expenses before the Competent Authority within the prescribed period.
- 5] In virtually the same set of facts, this Court, by its judgment and order dated 21 September 2015 in Writ Petition No. 9316 of 2015, has set aside similar order declining stay during the pendency

of the appeal before the Appellate Authority. In these cases as well, if the impugned orders are perused, the same are bereft of any reason. Although, there may not be necessity of recording elaborate reasons as well as dealing with applications for any interim relief, it is necessary to record some reasons, howsoever brief, whilst dealing with the applications seeking interim relief. There are no reasons in the impugned orders.

6] Normally, once the order is set aside on the ground that the same contained no reasons, the Appellate Authority is required to decide the matter afresh. In the present cases however, it would be appropriate if directions are issued to the Appellate Authority to dispose of the appeals instituted by the Petitioners as expeditiously as possible and in any case, within a period of three months from the date of production of authenticated copy of this order. In the meantime, the disqualification of the Petitioners shall stand stayed.

7] In these cases, the Petitioners contend that the returns with regard to election expenses had in fact been lodged with the Returning Officer within the prescribed period. Further, it is pointed out that the provisions contained in Section 14B of the Maharashtra Village Panchayats Act, 1958 (said Act) are directory in nature. Mere failure to furnish account within the prescribed period or in the

prescribed manner, does not lead to automatic disqualification. The Competent Authority is required to apply its mind to the cause shown and only thereafter take a decision on the issue of disqualification. In these circumstances, a *prima facie* case is made out for grant of interim reliefs during the pendency of the appeals before the Additional Commissioner. Accordingly, the impugned orders in each of these petitions are set aside. There shall be a stay on the disqualification of the Petitioners during the pendency of the appeals before the Additional Commissioner. The Additional Commissioner is however directed to dispose of the appeals as expeditiously as possible and in any case within a period of three months from the date of production of authenticated copy of this order.

8] The parties to appear before the Additional Commissioner on 30 November 2015 at 11 a.m. and produce authenticated copy of this order.

9] The parties, including in particular, the Petitioners herein, are directed to cooperate in the matter of expeditious disposal of the appeals. In case the Petitioners unnecessarily delay the appeal proceedings, the Additional Commissioner shall be empowered to vacate the interim relief granted by this order, after record of brief

reasons therefor.

10] It is further made clear that this Court has not examined the merits of the matters in detail and therefore, all contentions of all parties are left open for decision by the Additional Commissioner.

11] Rule is made absolute to the aforesaid extent in each of these petitions. There shall be no order as to costs.

12] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka