

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2156 OF 2014

Shri Nitin Popat Taware .. Petitioner
vs.
Shri Kailas @ Popat Sarjerao Taware & Ors. .. Respondents

Mr. J. Shekhar i/b. J. Shekhar & Co. for Petitioner.
Mr. Rahul Kate for Respondent No. 1.
Ms P. S. Cardozo – AGP for Respondent Nos. 2 and 3.

CORAM : M. S. SONAK, J.
DATE: 11 MARCH 2015

P.C. :-

1] The learned counsel for the petitioner seeks leave to delete the respondent no. 4 from the array of the respondents. Leave granted. Amendment to be carried out forthwith.

2] Rule. With the consent of and at the request of the learned counsels for the parties, Rule is made returnable forthwith.

3] This petition challenges the order dated 24 October 2013 by which the Joint Civil Judge, Junior Division, Baramati (Election Judge) has dismissed the petitioner's election petition under Section 15 of the Maharashtra Village Panchayats Act, 1958 (said Act) on the ground of the bar contained in Section 15A of the said Act.

4] Section 15 of the said Act provides that if the validity of any election of a member of a Panchayat is brought in question by any candidate at such election or by any person qualified to vote at the election to which such question refers, such candidate or person, may, at any time within fifteen days after the date of declaration of the result of the election, apply to the Civil Judge (Junior Division), and if there be no Civil Judge (Junior Division), then to the Civil Judge (Senior Division) (hereinafter in each case referred to as “the Judge”) having ordinary jurisdiction in the area within which the election has been or should have been held for the determination of such question.

5] Section 15A of the said Act provides that no election to any Panchayat shall be called in question except in accordance with the provisions of Section 15, and no Court other than the Judge referred to in that Section shall entertain any dispute in respect of such election.

6] In the present case, admittedly, the petitioner has instituted the election petition under Section 15 of the said Act before the Joint Civil Judge, Junior Division, Baramati, which is the Judge referred to in Section 15 of the said Act. Accordingly, there was no

question of reference to bar contained in Section 15A of the said Act. The impugned order has been made without application of mind and deserves to be set aside.

7] Accordingly, Rule is made absolute in terms of prayer clause (B) to this petition. The petitioner's election petition shall stand restored to the Court of the Joint Civil Judge, Junior Division, Baramati, who is directed to dispose of the same, on its own merits and in accordance with law within a period of six months from today.

8] Parties to appear before the Joint Civil Judge, Junior Division, Baramati, on 20 March 2015 at 11.00 am., in order to obtain directions for disposal of the election petition.

9] Parties to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka