

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11149 OF 2015

Chandrakant Bhupal Kadre .. Petitioner
vs.
Additional Divisional Commissioner
and ors. .. Respondents

Mr. Rahul P. Walvekar for the Petitioner.
Mr. S.D. Rayrikar, AGP for the State-Respondents.

CORAM : M. S. SONAK, J.
DATE : 16 NOVEMBER 2015.

P.C. :-

- 1] Not on board. Upon production, taken on board.
- 2] The learned counsel for the Petitioner seeks leave to delete Respondent No.3 for the purposes of present petition. Leave is granted. Amendment to be carried out forthwith.
- 3] Rule. With the consent of and at the request of learned AGP for the Respondents, Rule is made returnable forthwith.
- 4] The challenge in this petition is to the order dated 4 November 2015 made by the Additional Divisional Commissioner, Pune declining to grant the Petitioner a stay upon his disqualification

for alleged failure to submit returns of the election expenses to the Returning Officer.

5] It is the case of the Petitioner that the returns with regard to election expenses were filed within prescribed period. That apart, the provisions contained in Section 14-B of the Maharashtra Village Panchayats Act, 1959 (Said Act) do not provide for any automatic disqualification. It is only when the State Election Commission is satisfied that there was no good reason or justification for failure to submit return within prescribed period, can disqualification ensue.

6] On perusal of the impugned order dated 4 November 2015, it is clear that the same contains no reason whatsoever. At the stage of dismissal of application for stay, although there may be no requirement for setting out reasons elaborately, nevertheless, at least brief record of reasons is must. The impugned order merely records conclusion without there being any reason to support the same. On this short ground, the impugned order is liable to be set aside and is hereby set aside.

7] Normally, in the matter of this nature, the Additional Commissioner is liable to be directed to once again consider the application for stay and thereafter to dispose of the same by means of the reasoned order. However, considering the Petitioner's assertion that the returns of election expenses had been filed within the prescribed period and further, the provisions of Section 14-B of the said Act do not operate automatically, the interest of justice would be met if the Additional Commissioner is directed to dispose of the Petitioner's Appeal as expeditiously as possible and in any case within a period of eight weeks from today. During pendency of the Appeal, however, there shall be a stay upon the disqualification.

8] The Petitioner to cooperate in the expeditious disposal of the Appeal. In case, the cooperation is lacking, the Appellate Authority after brief record of reasons shall be at liberty to vacate the stay granted by this Court.

9] It is made clear that this Court has not examined the merits of the matter and therefore, all contentions of all parties are kept open to be decided by the Appellate Authority.

10] Parties to appear before the Appellate Authority on 23 November 2015 at 11.00 a.m. and produce authenticated copy of this order.

11] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

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

(M. S. SONAK, J.)

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