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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11020 OF 2014

Kisan Mariba Sul

...Petitioner

V/s.

Divisional Commissioner,
Pune Division, Pune & Ors.

...Respondents

.....

Mr. Dilip Bodake for the Petitioner.

Mr. S. D. Rayarikar, AGP, for Respondent Nos.1 and 2.

Mr. A. R. Matkari for Respondent No.3.

.....

CORAM : A. K. MENON, J.

DATE : 14TH SEPTEMBER, 2015.

P.C.:

The petitioner seeks to quash and set aside the order dated 1st December, 2014 passed by Additional Divisional Commissioner, Pune in a Stay Application in Gram Panchayat Appeal No.210 of 2014 challenging an order dated 18th October, 2014 passed by the Collector, Solapur in Gram Panchayat Dispute Application No.60 of 2013.

2. Today when the matter is called for admission, the learned counsel for the parties submit that the main Appeal No.210 of 2014 is listed before respondent no.1-Divisional Commissioner, Pune on 29th

September, 2015 and parties agree that on the said date the parties will proceed with the main matter. Meanwhile the office of the Tahsildar has called for information regarding vacant posts in the Gram Panchayat Chikmahud. Inter alia, the petitioners apprehension is that the election programme may thereafter be declared in which case his Appeal will be rendered infructuous.

3. The learned counsel for the petitioners point out that in the instant case the election was held on 23rd December, 2014 and the results were declared on 24th December, 2014 and he had, meanwhile, applied for a caste certificate which had not been issued and hence he could not submit the same within the statutory period of 4 months as set out in the proviso under section 10(1)(A) of the Maharashtra Village Panchayat Act, 1958. He submits that the caste certificate was thereafter received on 5th April, 2013. However, inadvertently the same could not be filed although it was received within the statutory period of 4 months. The petitioner has submitted the caste certificate on 29th July, 21013. It is only thereafter the respondent no.3 applied for disqualification of the petitioner on 17th August, 2013.

4. During the period between 29th July, 2013 to 16th August, 2013 the application for disqualification was not even filed. The

application for disqualification was decided on 18th October, 2014 and an Appeal came to be filed on 11th November, 2011. Along with the said Appeal, a Stay Application was also filed which was rejected on 1st December, 2014. Hence the present Writ Petition.

5. Today, it is agreed between the counsel that on 29th September, 2015 the main Appeal No.210 of 2014 is listed for disposal and parties agreed to co-operate, appear and conduct the Appeal for final disposal. The petitioner, however, apprehends that even before the Appeal is heard the election programme may be declared.

6. The learned counsel for the petitioner relies upon a Division Bench judgment in the case of **Dadasaheb Arjun Gulve V/s. State of Maharashtra & Ors. reported in 2008 (2) Bom.C.R. 712** in which the Division Bench of this Court has held that “the provisions of Section 10(IA) including the proviso requiring the caste certificate to be provided within a period of 4 months is only directory and not mandatory.”

7. In the circumstances, the petitioner having submitted the certificate albeit belatedly, the interests of justice will be served if the order dated 18th October, 2014 is not acted upon till final disposal of the

appeal which is pending before respondent no.1. Accordingly, there will be an order in terms of prayer clause (c) pending the disposal of Appeal No.210 of 2014 pending before respondent no.1-Divisional Commissioner of Pune. The learned counsel for respondent no.1 submits that the appellate authority will endeavour to dispose of the appeal on 29th September, 2015 but in any case, not later than six weeks from the date of this order. Accordingly, respondent no.1 is directed to dispose of the appeal as above within six weeks from today.

6. The writ petition is disposed of in the above terms.

(A. K. MENON, J.)

wadhwa

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.