

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12575 OF 2015

Shri Narayan Gopal Pawar and Ors.] ... Petitioners

Versus

Shri Visnudas Madhavrao Kanse and Ors.] ... Respondents

Mr. Chetan Patil i/b Mr. Ajit M. Savagave for Petitioners.

Mr. K. J. Phakade for Respondent No.1.

Mrs. Vaishali Nimbalkar, A.G.P., for Respondent Nos.2 and 3.

CORAM :- M. S. SONAK, J.

DATE :- DECEMBER 16, 2015

P. C. :-

1. **Not on board. Upon production, taken on board.**

2. **Rule.**

3. With the consent of and at the request of learned Counsel for parties, Rule is made returnable forthwith.

4. The challenge in this petition is to the order dated 22/09/2015 by which the Additional Commissioner, Pune, has declined stay upon the petitioners' disqualification, pending their appeal before him challenging such orders of disqualification.

5. The petitioners have been disqualified for alleged failure to lodge election expenses within the prescribed period before the prescribed authority by resort to the provisions contained in Section 14B of the Maharashtra Village Panchayats Act, 1958 ('said Act').

6. If the impugned order is perused, then, the same is bereft of any reason. Some reasons were required to be indicated, particularly since the issue was of disqualification of elected members. That apart, it is the case of the petitioners that they had, in fact, lodged their returns within the prescribed period. They submitted that even the Returning Officer has made a statement that the returns with respect to the election expenses had been lodged before him within the prescribed period. This position is, however, disputed by the respondent no.1. Nevertheless, considering the document dated 24/08/2015, a *prima-facie* case is certainly made out that the returns had been lodged with the Returning Officer.

7. The provisions of Section 14B of the said Act do not lead to any automatic disqualification upon mere failure to lodge returns within the prescribed period or in the prescribed manner. The authority concerned is required to apply his mind to the cause shown and only thereafter take decision as to the disqualification.

8. Accordingly, the impugned order is set aside. The disqualification of the petitioners is stayed pending the disposal of appeal before the Additional Commissioner. The Additional Commissioner is directed to dispose of the appeal on its own merits

and in accordance with law as expeditiously as possible and in any case, within a period of three months from today.

9. All parties to co-operate in the matter of expeditious disposal of the appeal. In particular, the petitioners not to unnecessarily delay the matter before the Additional Commissioner. In case the petitioners unnecessarily delay the proceedings, the Additional Commissioner shall be empowered to vacate the interim relief granted by this Court, upon recording brief reasons therefor.

10. It is made clear that the observations made by this Court are only *prima-facie* and the same need not influence the Additional Commissioner in deciding the matter finally on merits and in accordance with law. It is made clear that this Court has not examined the merits of the matter and therefore all contentions of all parties are left open for the decision taken by the Additional Commissioner.

11. Rule is made absolute to the aforesaid extent. 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.)