

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1396/2015.

Smt. Shantabai Gulabrao Mahalle

-VERSUS-

State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

**CORAM : B.P.DHARMADHIKARI
AND S.B.SHUKRE, JJ.**

DATE : MARCH 17, 2015.

Heard Shri A.R. Ingole, learned Counsel
for the petitioner.

Shri N.R. Patil, learned A.G.P. who appears
for respondent nos. 1 and 2, has only assisted the
Court, as instructions on facts are still awaited. He
points out that as yet this Court has not issued any
notice in the matter.

Learned counsel for the petitioner submits
that the petitioner has been disqualified as resident of
Municipal Council, Morshi under Section 44 [1][e] of
the Maharashtra Municipal Council, Nagar Panchayat

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and Industrial Township Act, 1965. Statutory appeal under Section 44 [4] thereof is itself pending with the respondent no.1 since 27.11.2014. He also submits that a prayer to stay said order is also made in that appeal. That appeal was to be heard on 03.03.2015, but, as on that date the Hon'ble Minister was not available, no hearing could take place. Next date of hearing is still not given and respondent no.5 State Election Commission has now taken steps to fill in the vacancy by holding fresh elections.

He therefore, seeks suitable interim orders.

During hearing we find that the tenure of petitioner as President expires in the year 2016.

Learned A.G.P. opposes any intervention of this Court, as appeal is still pending.

As the appeal is provided for by the statute, it is apparent that any election to fill in the vacancy caused due to disqualification of petitioner cannot nullify that statutory remedy. The same also shall be subject to outcome of the said appeal.

In this situation, without going into the merits of the controversy, we direct the petitioner to

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appear before the Appellate Authority on 08.04.2015 and to abide by its further instructions in the matter. The said authority shall attempt to decide the appeal finally within a period of next three months.

With these directions and keeping all rival contentions open, we dispose of the writ petition. No costs.

JUDGE

JUDGE

Rgd.