

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

Writ Petition No.5302 of 2015

(Shri Pralay s/o Bhauraoji Telang and others v. State of Maharashtra, through its
Collector, Wardha, and another)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's order

Court's or Judge's orders

Shri A.S. Jaiswal, Senior Advocate, assisted by Shri S.V. Sirpurkar,
Advocate for Petitioners.

Shri H.D. Dubey, Assistant Government Pleader for Respondent No.1.
Dr. Anjan De, Advocate for Respondent No.2.

Coram : R.K. Deshpande, J.

Date : 19th October, 2015

The disqualification of the Councillors in question is under Section 3(1)(a) of the Maharashtra Local Authority Members Disqualification Act, 1986. The said provision is reproduced below :

“3. Disqualification on ground of defection :-

(1) Subject to the provisions of sections 4 and 5, a councillor or a member belonging to any political or party aghadi or front shall be disqualified for being a councillor or a member-

(a) If he has voluntarily given up his membership of such political party or aghadi or front; or ...”

Under the aforesaid provision, a member belonging to any political

party or aghadi or front shall be disqualified for being a Councillor or a Member, if he has voluntarily given up his membership of such political party or aghadi or front.

In the present case, it is held by the Collector in his order dated 31-7-2015, impugned in Writ Petition No.5302 of 2015, that six persons, who are the petitioners in the said writ petition, have established the separate group, called “Navnirman Vikas Aghadi, Hinganghat”, and have accordingly incurred the disqualification under Section 3(1)(a) of the said Act. Reliance is placed upon the letter dated 23-7-2014, said to have been signed by all the petitioners, addressed to the Collector, Wardha, informing that they are establishing such separate group because of the differences with the respondent No.2, who is the group leader of Nationalist Congress Party. Similarly, the minutes of meeting dated 23-12-2014 recording such intention of the petitioners, have also been relied upon.

Shri Anand Jaiswal, the learned Senior Counsel, assisted by Shri S.V. Sirpurkar, Advocate for the petitioners, has urged that the signatures on the letter dated 23-7-2014, relied upon by the Collector, have been disputed by all the petitioners. He further submits that even the minutes of meeting recording such fact are also disputed. He has invited my attention to the minutes of meeting dated 23-12-2014 and has urged that five petitioners out of six are nominated on different Committees by the original complainant. This could not have been done if the petitioners had incurred such disqualification. These are the only contentions urged.

It is not in dispute that all the petitioners were elected from the political party of the Nationalist Congress, and the respondent No.2 was the leader of the Party. The respondent No.2 is the complainant and has led his oral evidence in support of his complaint to disqualify the petitioners under Section 3(1)(a) of the said Act. He has stated in his oral evidence that he identifies the signatures of all the petitioners on the said communication dated 23-7-2014, by which the petitioners have expressed their intention to form a separate group called “Navnirman Vikas Aghadi, Hinganghat”. Being leader of the group, it is natural on his part to identify the signatures of the petitioners, unless his version is shaken in cross-examination. Shri Anand Jaiswal, the learned Senior Counsel appearing for the petitioners, has invited my attention to the cross-examination of the respondent No.2, in which the statement made by him that who has delivered such letter to the Collector, is not of any relevance. The fact of its delivery is not disputed. This does not in any manner advance the defence of the petitioners that they have not signed the letter. The letter dated 23-7-2014 is proved and none of the petitioners have entered the witness-box to deny their signatures. The Sub-Divisional Officer has been examined and the minutes of meeting dated 23-12-2014 recording the fact of six petitioners forming the separate group, has been proved. Merely because in this meeting the petitioners were nominated on various Committees, that would not save them from disqualification, which is incurred. The Collector has taken a possible view of the matter – relying upon the documents produced on record. No interference is called for.

Consequently, the petition is dismissed.

Writ Petition No.1968 of 2015

Writ Petition No.1969 of 2015

Writ Petition No.1970 of 2015

Writ Petition No.1971 of 2015

Writ Petition No.1972 of 2015

And

Writ Petition No.1973 of 2015

In view of the dismissal of Writ Petition No.5302 of 2015 today, the learned counsels appearing for the parties submit that the aforesaid petitions also do not survive.

Hence, these petitions are also dismissed.

Judge.

Lanjewar