

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

WRIT PETITION NO.5794 OF 2015

Bhagwan Lalchand Sonone

-vs-

State of Maharashtra, Thr. Secretary, Ministry of Urban Development Dept. Mantralaya ,
Mumbai and ors.

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

Court's or Judge's Orders.

Shri U. J. Deshpande, Advocate for petitioner.
Smt. H. Prabhu, AGP for respondent Nos.1 and 2.
Shri A. B. Mirza, Advocate for respondent No.3.
Shri S. V. Purohit, Advocate for respondent No.4.

CORAM : A.S.CHANDURKAR, J.
DATE : December 23, 2015

P.C.

Considering short issue involved, the counsel for the parties have been heard at length by issuing Rule and making the same returnable forthwith.

In proceedings initiated by the petitioner under Section 44(1) of the Maharashtra Municipal Councils, Nagar Panchayat and Industrial Township Act, 1965, the respondent No.4 came to be disqualified. Against the said order of disqualification, the respondent No.4 filed an appeal before the respondent No.1. The order of disqualification was stayed on 02/03/2015 and the petitioner herein filed Writ Petition No.1698 of 2015 challenging the said order. This Court directed the respondent No.1 to hear the parties and pass a reasoned order. On 24/09/2015 the appeal filed by respondent No.4 was allowed and the order of disqualification was

set aside.

Shri U. J. Deshpande, learned counsel for the petitioner submitted that the petitioner was not heard on stay application in terms of order dated 30/03/2015 in Writ Petition No.1698 of 2015. Similarly, the Honourable Minister while reversing the order passed by the Collector had not given any reasons for the same. Though various grounds were urged in the appeal, same were not considered while passing the impugned order.

Shri S. V. Purohit, learned counsel for the respondent No.4 supported the impugned order on the ground that the appeal deserved to be allowed as the order of disqualification dated 16/01/2015 was not in accordance with law. He submitted that infact there was no merit in the application filed by the petitioner. He also submitted that the written notes of arguments that were filed were taken into consideration.

Shri A. B. Mirza, learned counsel appeared for respondent No.3. Smt. H. Prabhu, learned Assistant Government Pleader appeared for respondent Nos.1 and 2. Both the learned counsel supported the impugned order.

Perusal of the impugned order indicates that after referring to various documents and reports submitted by the Chief Officer, it has been observed that the appeal filed by respondent No.4 was being allowed. Though there is reference to oral arguments as well as written notes, the impugned order does not indicate consideration of the same. Hence on the ground that the

impugned order has been passed without assigning any reason, the same is liable to be set aside.

In view of aforesaid, the following order is passed :

- i) Order dated 24/09/2015 passed by the respondent No.1 is set aside.
- ii) The proceedings are remanded for fresh consideration. The same shall be decided after giving due opportunity to the parties and by considering the entire material placed on record. The respective contentions of the parties on merits are kept open.
- iii) The appeal shall be decided expeditiously and by the end of February 2016.
- iv) Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE