

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

WRIT PETITION NO.6147 OF 2013

(Kashish Kasturchand Jaiswal ..vs.. The Collector of District Gondia and others)

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 29-06-2015

Heard Shri A.B. Moon, the learned Advocate for the petitioner and Shri T.R. Kankale, the learned Assistant Government Pleader for the respondent Nos.1 and 2. None appears for the respondent No.3. This Court had issued notice on 21-11-2013 and then notice for final disposal on 28-10-2014. The respondent No.3 has not put in appearance.

2. The petitioner has challenged the order passed by the learned Additional Collector, dismissing the petition filed by the petitioner under the provisions of the Maharashtra Local Authority Members Disqualification Rule, 1987 (hereinafter referred to as "the Disqualification Rules, 1987"). The petition is dismissed on the ground that the petitioner has not put his signature on the annexures filed by the petitioner alongwith the petition before the authority and it amounts to non-compliance of Rule 6(4) of the Disqualification Rules, 1987.

3. The Hon'ble Supreme Court in the case of ***Kedar Shashikant Deshpande etc. .vs. Bhor Municipal Council and others etc.*** reported in ***AIR 2011 SC 463*** has held that the provisions of Rule 6(3) and (4) of the Disqualification Rules, 1987 are directory and the defects are curable. In view of the law laid down by the Hon'ble Supreme Court in the above referred judgment, the impugned order is unsustainable.

Hence, the following order:

- (i) The impugned order is set aside.
- (ii) The matter is remitted to the learned Additional Collector, Gondia for deciding the petition filed by the petitioner, on merits, according to law.
- (iii) The petitioner undertakes to appear before the Additional Collector, Gondia on 24-07-2015.
- (iv) The petitioner shall take appropriate steps to serve the notice on the respondent No.3, as per the order of the Additional Collector.
- (v) As the matter is old, the learned Additional Collector shall dispose of the petition by 15-09-2015.

4. The petition is allowed in the above terms. In the circumstances, the parties to bear their own costs.

JUDGE