

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

WRIT PETITION NO. 6347 OF 2014

Sidharth Bhaurao Niranjane Vs. Chief Executive Officer Z. P. Chandrapur & Ors.

WITH

WRIT PETITION NO. 6346 OF 2014

Balkrushna Fakru Uike Vs. Chief Executive officer Z. P. Chandrapur & Ors.

WITH

WRIT PETITION NO. 6348 OF 2014

Shashikala Latari Madavi Vs. Chief Executive Officer Z. p. Chandrapur & Ors.

WITH

WRIT PETITION NO. 6349 OF 2014

Suresh Bhaurao Wasade Vs. Chief Executive Officer Z. P. Chandrapur & Ors.

WITH

WRIT PETITION NO. 6350 OF 2014

Ashwini Anil Wandhare Vs. Chief Executive Officer Z. p. Chandrapur & Ors.

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

Court's or Judge's Order

Shri H. S. Chitale Adv for petitioner.
Shri C. N. Adgokar AGP for respondent nos. 2,4 &
5.

CORAM: A.S.CHANDURKAR J.

DATED: 24th JULY, 2015.

Since all these writ petitions raise identical issues they
are being decided by this common judgment. Presence of
respondent no.3 is dispensed with in view of the order proposed to
be passed.

The petitioner in each writ petition was held disqualified

under provisions of Section 14(1) (j-5) of the Maharashtra Gram Panchayats Act, 1958. The order of disqualification was passed by the Additional Collector. In terms of provisions of Section 16 of the said Act, an appeal was preferred before the Divisional Commissioner. The appeal was however entertained by the Additional Commissioner and all the appeals came to be dismissed which adjudication is impugned in these writ petitioners.

Shri H. S. Chitaley, learned counsel appearing for petitioner in each writ petition submitted that Additional Commissioner had no jurisdiction to entertain the appeal under Section 16 of the said Act. Such jurisdiction was vested only with the Divisional Commissioner and for said proposition reliance was placed on the judgment of the learned Single Judge in *Atmaram Chapa Sandanshiv and another Vs. Shamshadbi Bashir Shah Fakir and others* 2008(3) *Maharashtra Law Journal* 906. He, therefore, submitted that the impugned orders deserve to be set aside as having been passed by an Authority having no jurisdiction.

The learned Assistant Government Pleader Shri Adgokar, appearing for respondent nos. 2, 4 and 5 supported the adjudication and submitted that the Additional Commissioner had exercised powers as delegated by communication dated

20.04.1977.

In *Atmaram* (supra) learned Single Judge after considering provisions of Section 16(2) of the said Act has held that the powers to entertain such appeal are delegated by the State Government to the Commissioner and hence it is only the Divisional Commissioner who can entertain the appeal. In said decision also the adjudication by the Additional Commissioner was set aside with a direction to the Commissioner to decide the appeals.

The facts in all these cases are identical to the adjudication referred to hereinabove. Hence, on this short ground the impugned orders deserve to be set aside.

Accordingly the following order is passed:

The orders passed by respondent no.4 in all these writ petitions are set aside on the ground that the respondent no.4 has no jurisdiction to entertain appeal under Section 16 of the said Act.

All the appeals are remitted to the Divisional Commissioner, Nagpur Division, Nagpur for fresh adjudication in accordance with law. The appeals shall be decided on their own merits. The interim relief granted by this Court on 25.11.2014 shall operate during pendency of the proceedings before the

Divisional Commissioner. It is however made clear that said Authority shall not be influenced by the continuation of interim relief by this Court and the appeals shall be decided on their own merits. Rule made absolute in aforesaid terms. No costs.

JUDGE

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