

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

922 WRIT PETITION NO. 5690 OF 2016

ASHOK RAMCHANDRA CHANDRAKANT DIVTE
VERSUS
NITIN MACHHINDRA PAWAR AND OTHERS

Shri. Hrishikesh V. Tungar, Advocate, for petitioner.

Shri. C.K. Shinde, Advocate, for respondent No.1.

Shri. S.K. Tambe, Assistant Government Pleader, for
respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 31st AUGUST 2016

ORDER:

1) The petition is filed to challenge the order made by the Additional Commissioner, Aurangabad in Appeal No.11/2016. Both the sides are heard.

2) Against the present petitioner proceeding is filed by respondent, Nitin under section 14(1) (j-1) of the Maharashtra Village Panchayats Act 1958 for disqualification as the third issue was born to him after the prescribed date. After service of the notice of the

proceeding he filed appearance and he filed applications for getting time and he also requested for making order against the applicant that he should make available documents like copy of application and the documents produced in support of the contentions to him. Those applications were taken on record and it appears that only adjournments were granted. In one application prayer was made to supply copies of the documents produced in the matter. Thus at least on three occasions the matter was adjourned by the Collector for giving opportunity to the present petitioner against whom disqualification is sought. Then the petitioner filed Appeal No.11/2014 before the Commissioner to challenge the aforesaid so called orders made on the aforesaid three applications filed by him or giving copies of documents. Learned Additional Commissioner has held that there was nothing to show any order was made against the interests of the appellant and so there was no need to decide anything and so the appeal is disposed of.

3) Along with the present proceeding, copy of the complaint petition is produced and due to this it cannot be

said that copy of the complaint petition filed against him was not supplied to him. The other circumstance is in respect of record with regard to birth of third child to present petitioner. Particulars are given in the petition itself about the date of birth and the schools in which the three issues were receiving education. It is contended that not only the third child but the second child was also born after the relevant date and so due to the birth of the third child, the member has incurred disqualification. The school leaving certificates and the birth certificates are produced on record in support of these grounds. Thus it cannot be said that the present petitioner was not made aware of the circumstances and the record on the basis of which the disqualification was sought. Specific time limit of 60 days is given to the Collector to take decision when such disqualification is brought to his notice. In spite of that when the petition was filed in September 2015 adjournments were given till December 2015 and due to filing of the appeal, further time till today is consumed. These circumstances are sufficient to infer that present petitioner was interested only in protracting the things. Thus there is no reason to interfere in the order made by

the Additional Commissioner. In the result, the petition stands dismissed. The Collector is expected to expedite the matter.

Sd/-
(T.V. NALAWADE, J.)

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