

WRIT PETITION NO.8735 OF 2016

1 The petitioners contend that, they have been declared disqualified to continue as the Members of the village Panchayat, in view of provisions of section 14-B of the Maharashtra Village Panchayat Act, on the ground of their failure to tender election expenses within specified period. An appeal presented against the order passed by the Additional Collector is stated to be pending before the Additional Commissioner at Aurangabad. The Additional Commissioner has given hearing to the petitioners on the question of grant of interim relief today, however, has not yet

pronounced the order.

2 It is contended that the meeting for electing the Sarpanch and Up-sarpanch of the village Panchayat is scheduled tomorrow at 10'O clock and as per the programme declared, the voting is to take place in the meeting at about 2'O clock.

3 Considering the urgency of situation, we direct the respondent No.1 Additional Commissioner to pronounce the order on the application for stay presented by the petitioners before 10.30 a.m. tomorrow i.e. 12.8.2016. If the Additional Commissioner proceeds to grant stay to the order passed by the Additional collector, he shall forth with communicate the said order to the concerned Returning Officer telephonically. Learned Government Pleader appearing for the State assures to communicate the instant order telephonically to the Additional Commissioner forth with.

4 The questions raised in the petition are specifically kept open for consideration at an appropriate stage. The petitioner has questioned the jurisdiction of the Additional Collector to entertain the application for disqualification relying on the Judgment in the matter of *Vaijayata Deepak Warke and others V/s. The State Election Commissioner and others* reported in 2016 II Mah. L.J.

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5 It would be open for the additional Commissioner to look into the objection relating to the jurisdiction of the concerned official to pass an order of disqualification against the petitioner at the time of issuance of interim order in the matter. If the Additional Commissioner, on consideration of the Judgment cited above, comes to conclusion that he cannot exercise appellate jurisdiction, he shall forward the papers to the Commissioner for his consideration and the Commissioner shall pass appropriate orders before the scheduled time.

6 With the direction as above, the writ petition stands disposed of.

7 Parties to act upon the authenticate copy of this order.

(K.L. WADANE, J)

(R.M.BORDE, J)