IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

907 WRIT PETITION NO. 9666 OF 2016

PUSHPABAI GANESH CHOUDHARI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Shri. N.L. Chaudhari, Advocate, for petitioners.

Shri. S.R. Yadav, Assistant Government Pleader, for respondent Nos.1 to 3.

CORAM: T.V. NALAWADE, J.

DATE : 22 SEPTEMBER 2016

ORDER:

1) The petition is filed to challenge the order made by the learned Collector, Dhule in the Village Panchayat Dispute bearing No.128 of 2015 and the order against the said decision in Appeal No.90/2016 decided by the Divisional Commission, Nasik Division, Nasik. Heard learned counsel for the petitioners.

2) Inquiry was started on the basis of complaint given by present respondent Nos.4, 5 & 6. They had contended that in the election to the village panchayat held in the year 2012 present petitioners have not

submitted accounts of the election and so they are liable to be disqualified in view of section 14B of the Maharashtra Village Panchayats Act 1958. After giving notice of the proceeding, the petitioners appeared before the Collector and filed say to the effect that they had filed the accounts. The Collector made order of inquiry and the report of the Tahsildar was called. On 22-3-2016 the Tahsildar gave report that there was no record showing that the accounts were submitted at any time by the present petitioners. The proceeding was started in the year 2015 but till that date the accounts were not submitted. The Collector then passed order of disqualification.

3) In the appeal, the Commissioner has considered the record of inquiry and circumstance that there is nothing with the present petitioners showing that they had filed the accounts. The appeal is dismissed by the Commissioner.

4) The learned counsel for the petitioners placed reliance on the observations made by the Apex Court in the case reported as **(2008) 11 SCC 205 (State of**

Uttaranchal v. Sunil Kumar Singh Negi). The Apex Court has laid down that:-

> “Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made.
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> In the light of the factual details particularly with reference to the stand taken by the Horticulture Department at length in the writ petition and in the light of the principles enunciated by this Court, namely, right to reason is an indispensable part of sound judicial system and reflect the application of mind on the part of the court, we are satisfied that the impugned order of the High Court cannot be sustained."

5) There cannot be any dispute over the propositions made by the Apex Court. It is true that the Collector had not given specific reasons mentioned in the report given by the Tahsildar and the circumstance that there was nothing with the petitioners to show that they had filed accounts. However, the fact remains that there is no record showing that such inquiry was ordered by the Collector and the aforesaid report was submitted by the Tahsildar. It cannot be said that present petitioners had no knowledge about the allegations against them. It was

up to them to produce record and satisfy the Collector that they had filed the accounts. The provision of section 14B of the Act shows that the decision is on the basis of subjective satisfaction of the authority. In view of these circumstances it cannot be said that due to absence of specific reasons given in the order, the order of the Collector ought to have been set aside by the Commissioner. It was appeal proceeding before the Commissioner and the Commissioner has considered the relevant record. There was also opportunity to the petitioners to satisfy the Commissioner that they have filed accounts but they failed to do so.

6) Learned counsel for the petitioners placed reliance on some observations made by this Court in the case reported as **2011 (3) Bom.C.R. 359 (Sahebrao Dashrathrao Patole v. State of Maharashtra)**. In this case this Court considered the facts of that case and the facts showed that there was some record showing that accounts were filed and there was no record with the authority to show that inquiry was conducted. Thus the facts of this case were totally different.

7) The learned counsel for the petitioners submitted that notice was not issued to the petitioners for filing accounts. The provision of section 14B shows that there is no such provision made for issuing notice and the duty is cast on the candidate to file the returns. It is not expected to wait till receipt of the notice as the period is fixed for filing of the accounts. So, the submission with regard to requirement of notice is not at all acceptable.

8) The discussion made above shows that the authorities below are satisfied with the contentions that the petitioners did not file accounts. When the matter involves subjective satisfaction of the authority, the Courts are not expected to lightly interfere in the decision given by the authority. The decision given by the authority has the basis of the material. In view of these circumstances, this Court holds that it is not possible to interfere in the orders made by the Collector and the Commissioner. There is no need to issue notice to other side. The petition is dismissed.

Sd/-

(T.V. NALAWADE, J.)

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