

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

WRIT PETITION NO.11846 OF 2016

Ravindra s/o Namdeo Mhaske

... PETITIONER

VERSUS

The Additional Divisional Commissioner,
Nashik Division, Nashik
and others

... RESPONDENTS

.....

Shri N.V. Gaware, Advocate for petitioner
Shri S.K. Tambe, A.G.P. for State
Shri P.R. Nagargoje, Advocate for respondent No.4

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CORAM: T.V. NALAWADE, J.

DATED: 22nd December, 2016.

ORAL ORDER :

1. The petition is filed to challenge the order made by the learned Additional Collector of disqualification against the present petitioner under the provisions of Section 14-J-1 of the Maharashtra Village Panchayats Act, 1959 and also the decision given by the learned Additional Commissioner, by which, in

appeal, the decision of the learned Additional Collector is confirmed by the appellate authority. Both the sides are heard.

2. In the disqualification proceedings filed by respondent Narayan Laxman Kakade, he had contended that, three children were born to the wife of present petitioner on 25/8/2011, 6/2/2013 and 16/7/2014. It was contended that, as after 13/9/2001 three children were born to the wife of present petitioner, he was not eligible to contest the election and so, he needs to be disqualified. The birth extracts of the three children were produced.

3. The present petitioner took defence that he had given one issue in adoption on 8/7/2014. He produced the record like adoption document in support of his contention.

4. Even if the case of the petitioner is accepted as it is, that he had given one issue in adoption, he cannot escape from the disqualification. A person stands disqualified as soon as the third child is born to him after the aforesaid cut-off date. What happens afterwards is immaterial. The certificates issued of birth have presumptive value, and further the fact that he was having

three children and they were born after the cut-off date is not disputed by the petitioner.

5. In view of the circumstances, it is not possible to interfere in the orders passed by the learned Additional Collector and the Additional Commissioner. In the result, the Writ Petition stands dismissed.

(T.V. NALAWADE, J.)

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