IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

8 WRIT PETITION NO. 10224 OF 2016

LAXMIBAI BHATU SALVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioner : Choudhari N. L.
AGP for Respondents 1 to 3 & 5 : R.B. Bagul
Advocate for Respondent 4 : Shrikant S. Patil
...

CORAM : T.V. NALAWADE, J.
DATED : 21st November, 2016.

ORDER :

1. Notice. Learned counsel Shri. S.S. Patil waives notice for respondent No. 4. The learned AGP waives notice for other respondents. Heard both the sides.

2. The petition is filed to challenge the order made by the Collector in disqualification proceeding started under section 14B of the Maharashtra Village Panchayats Act, 1959 and also the order made by the appellate authority, the Commissioner in appeal. On the ground that election expenditure was not submitted within the prescribed time, the authority has disqualified the present petitioner, who was also elected to the post of Sarpanch.

3. The submissions made and the reasoning given show that result of the election was declared on 6.8.2015. As per the provisions of the Act and Rules, the last date for submission of account of expenditure was 5.9.2015. The account of expenditure was submitted on 1.10.2015. The petitioner filed affidavit and also certificate of doctor to show that she was sick from 20.8.2015 to 9.9.2015 and she submitted that due to sickness she could not move and she could not file returns of expenditure.

4. The Collector has held that there is no explanation for the period which is other than the period mentioned in the certificate and so, the Collector has held that there was no justification for not filing the returns of expenditure. The learned Commissioner has confirmed this finding.

5. The submissions made and the reasoning given in which the certificate is discussed and the affidavit is discussed show that there is no explanation at all in respect of the period from 6.8.2015 to 20.8.2015 and during that period, she could have filed the returns of expenditure and it was the period given for filing the returns. Nothing is said about this period. Though the last date for submission for returns was 5.9.2015, the

explanation is only for the period up to 9.9.2015. Thus, she could have filed the returns after 10.9.2015 but before 1.10.2015, but there is no explanation in respect of this period which is beyond the period fixed for filing the returns.

6. The provisions of section 14B of the Act runs as under :-

> "**14B. Disqualification by State Election Commissioner.-** (1) If the State Election Commission is satisfied that a person,-
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> (a) has failed to lodge an account of election expenses within the time and in the manner required by the State Election Commission, and
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> (b) has no good reason or justification for such failure,
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> the State Election Commission may, by an order published in the Official Gazette, declare him to be disqualified and such person shall be disqualified for being a member of panchayat or for contesting an election for being a member for a period of five years from the date of this order.
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> (2) The State Election Commission may, for reasons to be recorded, remove any disqualification under sub-section (1) or reduce the period of any such disqualification."

The aforesaid provision shows that it is up to the candidate to show that there was good reason or justification for failure to file the returns within the prescribed period. From the wording of section, it can be said that subjective satisfaction of the authority is involved. When the Collector and the Commissioner, appellate authority have held that they are not satisfied with the explanation, this Court sees no reason to interfere in the order made by the Collector which is confirmed by the Commissioner.

7. The learned counsel for petitioner has placed on record a copy of the order made by the Collector in Dispute Application No. 86/2015 and submitted that there was delay of 3 months and 17 days, but in that case, the Collector accepted the reasoning given and held that delay was explained. It is already observed that subjective satisfaction is important and two matters cannot be compared by this Court in the matter like present one. So, this order cannot help the petitioner.

8. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

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