

1. Rule. Rule made returnable forthwith. By consent of both the sides, the petition is taken up for final disposal.
2. The petition is filed to challenge the order made by learned Additional Collector, Nanded in Enquiry

No.2015/GB/Desk-1/Village Panchayat/KV-51424. The enquiry was started on the basis of complaint made by the present petitioner, who has lost election from one ward. The respondent No.5 had contested the election from two wards of Village Panchayat. It is the case of the petitioner that, when as per law the respondent No.5 ought to have tendered resignation in respect of post of one ward within prescribed period of 7 days, she had not tendered the resignation and due to that, she stands disqualified.

3. It appears that, the learned Additional Collector decided the matter on the basis of report given by Tahsildar, Degloor and he has given reason that, from record it appears that the resignation was tendered within prescribed time.

4. The learned counsel for petitioner submitted that, no opportunity at all was given to the petitioner to substantiate the allegations made by him. He has produced on the record copies of entries of Inward and Outward Registers maintained by Tahsil Office, Degloor. This record shows that, in Inward register no entry of resignation of respondent No.5 was made. In the outward register, there is one entry dated 1.8.2015, but the

entry is at Sr.No.2401-A. After this date, there is entry No.2402, dated 3.8.2015. There is nothing on the record to show that, this register was closed on that day i.e. on 1.8.2015 and no scope was left to make entry. The registers both in respect of inward correspondence and outward correspondence do not show that on any other occasion entry was made by adding one more document for the same entry number, by mentioning it as "2401-A". The learned counsel for respondent submitted that, receipt was given to him on 1.8.2015 itself and so, it needs to be presumed that the resignation was tendered within prescribed period.

5. The order made by the authority speaks for itself and it shows that, he did not make any enquiry and he placed reliance entirely on the report made by the Tahsildar. In view of these circumstances and as the strict compliance of the provisions is expected when the matter of disqualification comes, this Court holds that, opportunity needs to be given to the present petitioner to substantiate the allegations made by him. The authority is expected to make the enquiry personally and the petitioner needs to be allowed to examine witnesses to substantiate the allegations.

6. In the result, the petition is allowed. The order made by the learned Collector, dated 20/10/2015 is set aside. The matter is remanded back to the authority for fresh enquiry, during which, opportunity needs to be given to both the sides. Parties are directed to appear before the authority on 16th September 2016. The authority is expected to make the enquiry within one month thereafter. Rule made absolute in those terms.

(T.V. NALAWADE, J.)

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