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

910 WRIT PETITION NO. 11177 OF 2016
WITH WP/11174/2016 WITH WP/11175/2016 WITH
WP/11176/2016 WITH WP/11259/2016

SHAILESH PRALHADRAO GHUMARE
VERSUS
THE RETURNING OFFICER JALNA AND OTHERS
...
Advocate for Petitioner : K G Bhosale
Advocate for Respondent/Returning Officer : S.T. Shelke
...

CORAM : T.V. NALAWADE, J.
DATED : 16th November, 2016.

ORDER :

1. The petition of Durgesh Kothotiwale bearing No. 11259/2016 is filed to challenge the order made by the learned District Collector on 26.11.2013 in disqualification proceeding against the present petitioner. He had not submitted the returns of expenditure within the prescribed period of time and so, by order dated 26.11.2013 he came to be disqualified. The learned counsel for petitioner submitted that petitioner was never informed about the decision and only during the scrutiny of the present nomination form, he realized that such order was passed against him.

2. The submissions made show that notice of show

cause was given of disqualification proceeding by the learned Collector to the present petitioner. Submissions made show that then he had submitted returns of expenditure. Admittedly, the order of disqualification was published in official gazette of the State Government on 31.1.2014. This order could have been challenged under the provisions of section 47 (4) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965, but the order is not challenged by filing appeal and directly, the present petition is filed. This Court holds that when there is remedy of appeal available, the petition cannot be entertained. So, the petition stands dismissed with liberty to file appeal, if it is permissible.

3. It appears that the petitioners from the remaining petitions were also disqualified by the same order of the Collector and the order was published in the official gazette on 31.1.2014. As they were disqualified under provisions of section 16 (1)(D) of the aforesaid Act, they are prevented from contesting the election for the period of three years from the date of order i.e. 26.11.2013. The last date for filing nomination was 29.10.2016. Thus, the disqualification period was not over. On this ground the nominations are rejected. In view of the aforesaid circumstances, this Court holds that it is not possible

to interfere in the orders made against the other petitioners by the Returning Officer which are confirmed by the District Court.

4. In the result, all the petitions stand dismissed.

[T.V. NALAWADE, J.]

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