

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.7798 OF 2016**

Ramchandra Shivaji Gadade Petitioner
vs
The Tahsildar Mohol Solapur & ors .. Respondents

Mr.Vijay Killedar for Petitioner
Mrs.Vaishali Nimbalkar AGP for Respondent nos.1 to 3.

CORAM: G.S.KULKARNI, J
DATE: 22 AUGUST, 2016

P.C.

1. Heard learned counsel for the petitioner and learned Assistant Government Pleader for respondent nos.1 to 3.

2. This petition is directed against an order dated 8 June 2016 whereby the petitioner's stay application in an appeal filed under section 16 of the Maharashtra Village Panchayats Act, 1959 has been rejected. The contention of the petitioner before the appellate authority as also before this Court is that the petitioner had complied with the requirements of section 14B (a) of the Act by filing declaration of accounts on 16 November 2015 in respect of the election which came to be held on 1 November 2015 results of which were declared on 4 November 2015.

3. In support of the petitioner's case reliance is placed on the documents which is annexed and termed as a "poch pavti" (page 16 of the paper book). Learned counsel for the petitioner also submits that the fact that such a declaration has been filed is also acknowledged by the Tahsildar in a communication dated 4 April 2016 addressed to the Collector District Solapur.

4. On the other hand, the learned AGP Pleader submits that necessary declaration on affidavit has not been filed as required under the direction of the State Election Commission so as to have a complete compliance of the provisions of section 14B (a) of the Act.

5. Be that as it may, it may not be necessary for this Court to consider the rival submissions and the respective assertions as made by the parties, for the reason that the appeal filed by the petitioner itself is pending. This petition is against an interlocutory order rejecting a prayer for a stay. The contentions of the parties on the merits are required to be adjudicated in the appeal. In any event no orders which would have the effect of rendering the appeal inconsequential cannot be passed by this Court when the scope of the petition is only a challenge to a rejection of an

interim stay. It would thus be appropriate that the appellate authority considers the facts of the case and takes up the appeal for hearing and decide the same more particularly when the issue being narrow.

6. In view of this position, the writ petition does not require any further adjudication. The petitioner is at liberty to approach the appellate authority with a request to take up the pending appeal for hearing. If such an application is made within a period of one week from today, the appellate authority shall fix a appropriate date to decide the appeal, which be decided as early as possible and in any event, within a period of six weeks from today.

7. All contentions of the parties on merits of the matter are expressly kept open. Writ petition is disposed of in above terms.

Parties to act on an authenticated copy of the order.

(G.S.KULKARNI, J)

Rng

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