

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10706 OF 2016

Narayan Ramchandra Mashalkar	..Petitioner
Versus	
State of Maharashtra through Secretary & Anr.	...Respondents

WITH

WRIT PETITION NO.11142 OF 2016

Sou Vinatai Mahadeo Devakate	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

...

WITH

WRIT PETITION NO.10737 OF 2016

Nagesh Vitthal Gaikwad	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

WITH

WRIT PETITION NO.10707 OF 2016

Chandrakant Tipanna Manavi	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

WITH

WRIT PETITION NO.10708 OF 2016

Sou. Yamuna Ravindra Diddi	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

WITH

WRIT PETITION NO.10709 OF 2016

Sau Shapure Vaishali Chandrakant	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

WITH

WRIT PETITION NO.10710 OF 2016

Chinta Ambadas Pandurang	...Petitioner
Versus	

The State of Maharashtra & ors. ...Respondents

**WITH
WRIT PETITION NO.10711 OF 2016**

Sou. Chinta Suvarna Ambadas ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10712 OF 2016**

Sidram Vithal Vhanmore ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10713 OF 2016**

Hemant Damu Pingale ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10714 OF 2016**

Rajendra Zumbarlal Kalantri ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10715 OF 2016**

Smt. Donta Ambika Balaji ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10805 OF 2016**

Maqboolso Babulalso Moholkar ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10806 OF 2016**

Mallikarjune Govind Madiwal ...Petitioner

Versus
The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10823 OF 2016**

Sou. Kasturbai Ambayya Mergu ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10824 OF 2016**

Smt. Shaik Vahidabi Unnus ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO.10825 OF 2016**

Basavaraj Ramanna Kengnalkar ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

...

Mr. R.D. Suryavansi with Mr. V.S. Deokar, Ms Ujawala Karpe i/b. Ms Meenal S. Deshmukh for the Petitioners in all the matters.

Mr. R.B. Shetye for Respondent No.4 in all matters.

Mr. Samir Dharmadhikari for Respondent No.3 in WP/10706/2016, 10805/2016, 10824/2016 and 10825 /2016.

Mr. I.M. Khairdi for Respondent No.3 in WP/10707/2016 to 10710/2016 and Respondent No.4 in WP/10737/2016.

Mr. D.G. Dhanure for Respondent No.3 in WP/10711/2016 to 10713/2016, 10806/2016 and 10823/2016.

Mrs. M.P. Thakur, AGP for Respondent-State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 13th OCTOBER, 2016.

P. C. :

All the Petitioners in the above petitions are the defeated candidates in general election held in the year 2012. They were disqualified

by the Divisional Commissioner, Pune Division, Pune by an order dated 10.7.2013. However, this order was to come to effect after the date of the publication of the same in official gazette. The order was published in official gazette on 13.3.2014.

2. It is the case of the Petitioners that they came to know about their disqualification in the month of June, 2016 when the news appeared in the newspaper. The Petitioners thereafter preferred an appeal before the Election Commissioner in the month of July, 2016. The Election Commissioner rejected these appeals by impugned orders dated 3rd August, 2016 and 29th August, 2016 in the respective petitions, solely on the ground of delay and that the Petitioners have not filed application for condonation of the same.

3. After hearing the learned counsels for the respective parties and perusal of the provisions, we find that the Mumbai Municipal Corporation Act, 1949 does not provide period of limitation for filing an appeal to challenge order under section 10(1) F of the Act. The impugned orders further reveal that the Petitioners were not heard. In these circumstances, we are of the opinion that the Election Commissioner ought to have decided the appeals on merits after hearing all the concerned.

4. We accordingly dispose of the petitions by passing following

order :-

(I) Orders dated 3.8.2016 and 29.8.2016 passed by the Election Commissioner in the above respective petitions are quashed and set aside. The matters are remanded back to the Election Commissioner.

(II) The Election Commissioner or any other authorised officer shall dispose of the appeals filed by the Petitioners challenging the orders under section 10(1)F as expeditiously as possible and in any case within a period of four weeks from the date of receipt of copy of this order.

5. Needless to mention that the Election Commissioner or any other authorised Officer shall dispose of the said appeals on its own merit and only after hearing the parties. All points and contentions of the respective parties are expressly kept open. The parties shall appear before the Election Commissioner or the concerned authorised Officer on **17.10.2016.**

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)