

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**WRIT PETITION NO. 11058 OF 2016
WITH
WRIT PETITION NO. 11091 OF 2016
WITH
WRIT PETITION NO. 11268 OF 2016
WITH
WRIT PETITION NO. 11269 OF 2016
WITH
WRIT PETITION NO. 11270 OF 2016**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Rajesh Datar for the Petitioner in all petitions.
Mrs. M.S. Bane 'B' Panel Counsel for the Respondent Nos. 1 and 2/State.
Mr. J. M. Joshi for Respondent No.4.

**CORAM : K. K. TATED, J.
DATED : 06/10/2016**

PC.:

. Not on board. At the request of Advocate for the petitioner, matters are taken on board for urgent orders.

2 Heard learned counsel for the parties.

3 By consent of both the parties, matters are taken on board for final hearing at the stage of admission.

4 The issue involved in all the matters is similar and the order passed by the Authority is common. Hence, it is not necessary to give separate reasoning

in each and every matter.

5 By these petitions, the petitioners are challenging the order passed by the learned Collector, Palghar declaring the petitioners disqualified as a member of Gram Panchayat, Chahade, Taluka Palghar as per provision of Section 14-B of the Maharashtra Village Panchayat Act, 1959 for non lodging an account of election expenses within 30 days from the date of election result. The order passed by the learned Collector upheld by the Respondent No.2 Addl. Commissioner, Konkan Division, Mumbai in Appeal. Hence, the present petitions.

6 The learned counsel for the petitioners submits that election result was declared on 27.11.2012. Thereafter, all the petitioners went to Shirdi, Shani Shingnapur and other religious places. On the way, they suffered food poisoning and therefore, there was delay of 10 days in lodging the account with the Authority. He submits that these facts were not considered by both the Authorities below. He submits that even Respondent No.4 original complainant filed affidavit-cum-application before the commissioner stating that, reason disclosed by the petitioner is satisfactory and he may be allowed to withdraw his complaint. He submits that inspite of that the Commissioner rejected their

Appeals under Section 14-B of the said Act.

7 The learned counsel for the Respondent No.4 submits that they may be permitted to withdraw of their complaints, as the application filed by them before the Commissioner. He submits that the reason disclosed by the petitioner is satisfactorily. To that effect, the Respondent No.4 filed Affidavit-in-Reply dated 03.10.2016. Paragraphs 2 & 3 of the said reply reads thus:

“2. I say that the order dated 15th April, 2015 was passed by Respondent No.2 on the basis of a complaint filed by me in that regard against the Petitioner. I say that however I am satisfied about the cause given by the Petitioner in respect of the delay of 10 days occurred in lodging the account of Election expenses within stipulated time and I have no grievance whatsoever in that regard. I therefore withdraw my complaint in that regard filed against the Petitioner.

3. I say that I have filed an Affidavit dated 4th August 2016 before Respondent No.2 in the proceedings of Appeal No. Appeal/Dest/VP-206/2015, thereby withdrawing by my complaint and had given no objection for allowing the petitioner. I say that however the said Affidavit was not considered by Respondent No.2.”

8 I heard both the sides. It is to be noted that in the present proceeding, there was delay on the part of the petitioner to lodge an account of election expenses within thirty days. The delay was 10 days because of food poisoning to the petitioners when they went for religious prayers at different places.

9 It is to be noted that the Apex Court in the matter of *N. Balkrishnan V/s. M. Krishnamurthy (1998) 7 SCC 123* held that the object of fixing the time limit is not meant to destroy the rights. The law of limitation fixes a lifespan for such legal remedy for the general welfare. Even Section 14B(1) (b) of the Maharashtra Village Panchayat Act, 1958 states that if there is good reason or justification for delay in lodging account, same to be considered.

10 Considering the reasons disclosed by the petitioner about food poisoning and Affidavit-in-Reply filed by the Respondent No.4, I am satisfied that petitioners have made out case for allowing these Writ Petitions.

11 Hence, following order is passed:

a) Order dated 19.08.2016 passed by the Additional Commissioner, Konkan Division, Mumbai and order dated 15.04.2015 passed by the learned Collector in respective matters are set aside.

b) All Writ Petitions are allowed accordingly.

c) No order as to costs.

(K.K.TATED, J.)