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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5644 OF 2016

Pralhad s/o Arjunrao Kale,
Age: 42 years, Occu: Agriculture,
R/o Depegaon, Tq. Majalgaon,
Dist. Beed

..PETITIONER

VERSUS

1. State of Maharashtra,
Through Secretary,
Rural Development Department,
Mantralaya, Mumbai-400032
2. The Addl. Divisional Commissioner,
Aurangabad Division,
Aurangabad
3. Additional Collector,
Ambajogai, Tq. Ambajogai,
Dist. Beed
4. Bainabai w/o Laxman Dawre,
Age: 45 years, Occu: Sarpanch,
Village Panchayat Depegaon,
R/o Depegaon, Tq. Majalgaon,
Dist. Beed

..RESPONDENTS

Mr P. V. Ambade, Advocate for petitioner;
Mr S.M. Ganachari, A.G.P. for respondent Nos. 1 to 3;
Mr S. B. Bhosale, Advocate for respondent No.4

CORAM : NITIN W. SAMBRE, J.

DATE : 12th September, 2017

ORAL ORDER

Having heard the respective Counsel, it is noticed that respondent no.4 – elected member will not incur any disqualification on the issue of

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getting honorarium as a Helper in Anganwadi. As such, the issue to the extent seeking her disqualification stands rejected.

2. So far as the issue of disqualification of respondent no.4 for having received an amount of Rs.15,000/- in her account with State Bank of Hyderabad through cheque No.448426 is concerned, in my opinion, once the respondent – elected member having accepted to have received the said amount in the account, in law, burden was on her to explain the same.

3. Both the authorities below have committed an error in shifting burden on the petitioner to prove that the said amount was received by respondent no.4 - elected member illegally.

4. In view thereof, the orders impugned dated 8th March, 2016 and 13th August, 2015, passed by Divisional Commissioner and Additional Collector respectively, are hereby set aside.

The matter stands restored to the file of the Additional Collector, who shall decide the claim for disqualification of respondent no.4 afresh only on the issue of admitted receipt of amount of Rs.15,000/- in her account from the account of Grampanchayat.

Parties agree that they shall appear before the Additional Collector on 29th September, 2017 and submit their additional pleadings, if any.

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It is expected of the Additional Collector to decide the claim for disqualification within eight weeks from the date of appearance of the parties before him, in view of tenure of the respondent is coming to an end.

Writ Petition stands disposed of in above terms.

(NITIN W. SAMBRE, J.)

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