

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9648 OF 2017

Ratnabai Ambir Bhil
& others

Petitioners

Versus

The State of Maharashtra
& others

Respondents

Mr. P.B. Patil, advocate for petitioner.
Mr. S.P. Sonpawale, A.G.P. for respondents 1 to 3.
Mr. Ankush Nagargoje, advocate for respondent no. 7.

**CORAM : R.M.BORDE &
SMT. VIBHA KANKANWADI, JJ.
DATE : 27th SEPTEMBER, 2017**

PER COURT:

1. Petitioners are objecting to initiation of process of election during continuance of the appeal presented by him challenging the order of disqualification of petitioner by the Collector, Jalgaon. It is contended that it was impermissible for the respondents to initiate the process during the pendency of appeal when the vacancy has not yet been declared.

2. This Court, while entertaining the petition, granted ad-interim relief and directed the stay to the process of election and as such, the process that was declared by respondents could not proceed. For all practicable purposes, the petition is rendered infructuous.

3. It is pointed out that the appeal presented by petition is pending consideration with the Additional Commissioner, Nasik Division, Nasik. The ends of justice would be met if the appellate authority is directed to decide the appeal on its own merits and in accordance with law. It is pointed out that the appellate forum has raised preliminary issue in respect of limitation and permissibility to entertain the appeal which is stated to have been presented beyond prescribed period of limitation. It would be open for the appellate authority to consider the preliminary objection as recorded in notice dated 31.07.2017.

4. Writ petition thus stands disposed of with directions to the Additional Commissioner, Nasik Division, Nasik to decide the pending appeal presented by petitioners in accordance with law, as expeditiously as possible, preferably within a period of four weeks from today, after extending an opportunity of hearing to all the parties concerned. Petitioners assure to appear before the appellate forum on 09.10.2017 and as such, no separate notice requiring their presence before the appellate authority shall be necessary. Writ petition stands disposed of.

SMT. VIBHA KANKANWADI
JUDGE

R.M.BORDE
JUDGE