

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 10984 OF 2017

MAHAVEER PRAKASHCHAND PAHADE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...  
Advocate for Petitioners : Shri Rane Girish S.  
AGP for Respondents 1 & 2 : Shri Kendre S.N.  
Advocate for Respondent 3 : Shri Shelke S.T.  
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CORAM : RAVINDRA V. GHUGE, J.  
Dated: September 19, 2017  
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PER COURT :-

1. After briefly hearing the learned Advocates on 11.9.2017,  
I had passed the following order:-

"1. The petitioner is aggrieved by the common order published in the Maharashtra State Government Gazette on 2.3.2017, by which, the petitioner along with ninety two persons from the various Municipal Councils / Talukas have been declared disqualified on account of their failure to file the election expenditure returns. Reliance is placed on the judgment of this Court in the matter of Sahebrao Dashrathrao Patole Vs. State of Maharashtra and others. [2010 (5) Mh.L.J. 462], and paragraph Nos.7 and 10 of the said judgment are specifically pointed out.

2. I have considered the submissions of the learned AGP

*on behalf of the District Collector, Jalgaon who has passed the impugned order.*

*3. Issue notice before admission to the respondents  
Learned AGP waives service for respondent Nos.1 and 2.  
Shri Shelke, learned advocate waives service for respondent N.3.*

*4. Stand over to 19.9.2017, for passing orders."*

2. Shri Shelke, learned Advocate has tendered a copy of a notification published in the official gazette dated 10.8.2015, after the judgment in Sahebrao Dashrathrao's case (supra) was pronounced. Copy of the said notification is taken on record and marked as Exhibit "X" for identification.

3. Shri Shelke, therefore, submits that rather than filing this petition, the petitioner could have approached the Divisional Commissioner, by filing an appeal.

3. It is pointed out that in so far as cases as like the one preferred by this petitioner, pertaining to Nagar Parishad and Nagar Panchayat. the appeal is to be preferred before the Divisional Commissioner. In so far as a decision on tendering of election expenses and consequential disqualification on failure to

do so is concerned, that has to be considered by the District Collector. It is, therefore, submitted that the impugned order has been rightly passed by the District Collector.

4. I find from the impugned order that the District Collector, Jalgaon has not assigned any reason as to why the delayed submission of the election expenses and the explanation put forth deserve to be rejected. In a single sentence, it has been concluded that the explanation is considered and it is not satisfactory.

5. In my view, the District Collector was not expected to pass such an order, keeping in view, the law laid down by this Court in the case of Sahebrao Dashrathrao (supra).

6. The petitioner at Sr. No.6 in the impugned order is alone before this Court. For the reasons set out herein above, the impugned order passed by the District Collector, dated 27.2.2017 and published in the Gazette on 2.3.2017 is set aside to the extent of the petitioner herein above.

7. The petitioner agrees to appear before respondent No.2 on 29.9.2017 at 2.00 PM. Formal notice need not be issued to

respondent No.2. The petitioner is at liberty to submit written notes of submissions. After the conclusion of the hearing, respondent No.2 shall proceed to deliver a reasoned order as expeditiously as possible and preferably on/or before 29.12.2017. Needless to state, all the contentions of the parties are kept open to be considered independently by respondent No.2 on their own merits.

8. It also needs to be noted that this petition has been entertained by this Court, without laying down any precedent, since a statutory remedy is available.

( RAVINDRA V. GHUGE, J. )

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